



Community Development Department

**BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
September 28, 2016**

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

Item No.

Page No.

MINUTES

1. Consider approval of the minutes of the August 24, 2016 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA

CONSIDERATION

The following items are requests for a public hearing.

2. **Eden's Subdivision (JW)** 1

Hay Creek Township

- Zoning Change (A to RR) | ZC2016-019

Staff recommendation: schedule a hearing

☐ schedule a hearing

☐ table

☐ deny

- Preliminary Plat | PPLT2016-008

Staff recommendation: tentative approval

☐ tentative approval

☐ continue

☐ table

☐ deny

3. **Harvest Ridge Subdivision First Replat (JW)**
Preliminary Plat | PPLT2016-0077

Staff recommendation: tentative approval

☐ tentative approval

☐ continue

☐ table

☐ deny

4. **Sonnet Heights Subdivision Seventh Replat (JW)**
Zoning Change (RM30 to R10) | ZC2016-018..... 11

Staff recommendation: schedule a hearing

☐ schedule a hearing

☐ table

☐ deny



5. **Lots 1-2, Block 1, Replat of Calkins Addition & Auditor's Lots A & B of the SE¼ of the NE¼ of Section 33, T139N-R80W/City Lands (Klee)**
Zoning Change (RM30 to PUD) | ZC2016-017 15
- Staff recommendation: *schedule a hearing* ☐ schedule a hearing ☐ table ☐ deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARING

The following item is a request for final action and forwarding to the City Commission

6. **Memory 1st Addition (Klee)** 33
- **Partial Annexation | ANNX2016-003**
Staff recommendation: *continue* ☐ approve ☐ continue ☐ table ☐ deny
 - **Future Land Use Plan Amendment | FLUP2016-002**
Staff recommendation: *continue* ☐ approve ☐ continue ☐ table ☐ deny
 - **Zoning Change (A to CG and MA) | ZC2016-015**
Staff recommendation: *continue* ☐ approve ☐ continue ☐ table ☐ deny
 - **Final Plat | FPLT2016-007**
Staff recommendation: *continue* ☐ approve ☐ continue ☐ table ☐ deny

PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission

7. **Lot 1, Block 7, Stonecrest 2nd Addition (WH)**
Special Use Permit (Drive-up Service) | SUP2016-008 47
- Staff recommendation: *approve* ☐ approve ☐ continue ☐ table ☐ deny
8. **Lot 3, Block 1, Hay Creek Pines Subdivision (JW)**
Special Use Permit (Accessory Building) | SUP2016-010..... 53
- Hay Creek Township
- Staff recommendation: *approve* ☐ approve ☐ continue ☐ table ☐ deny
9. **Lot 2B of Lot 2, Block 1, 43rd Avenue Commercial Park 2nd Addition (JW)**
Special Use Permit (Drive-through Service) | SUP2016-011 59
- Staff recommendation: *approve* ☐ approve ☐ continue ☐ table ☐ deny
10. **Elimination of CR Zoning District – Sections 14-03-06, 14-03-08, 14-04-01, 14-04-13 and 14-05-05.1 (DN)**
Zoning Ordinance Text Amendment | ZOTA2016-003..... 65
- Staff recommendation: *approve* ☐ approve ☐ continue ☐ table ☐ deny

11. **Incidental Uses/Accessory Uses & RMH – Sections 14-03-06 and 14-04-05 (Klee)**
Zoning Ordinance Text Amendment | ZOTA2016-005..... 77

Staff recommendation: approve

☐ approve

☐ continue

☐ table

☐ deny

OTHER BUSINESS

12. **Other**

ADJOURNMENT

13. **Adjourn.** The next regular meeting date is scheduled for **October 26, 2016.**

Enclosures: Meeting Minutes of August 24, 2016
Building Permit Activity Month to Date Report for August 2016
Building Permit Activity Year to Date Report for August 2016



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

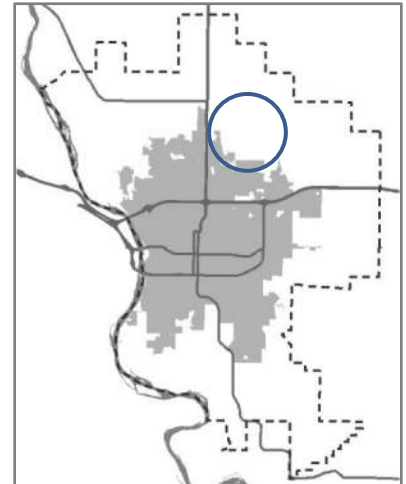
Agenda Item # 2
September 28, 2016

Application for: Zoning Change
Major Subdivision Preliminary Plat

TRAKiT Project ID: ZC2016-019
PPLT2016-008

Project Summary

<i>Title:</i>	Eden's Subdivision
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	K & M Northland Properties (Lots 1-2) Jerry Hauff (Lots 3-7)
<i>Project Contact:</i>	Dave Patience, Swenson, Hagen & Co.
<i>Location:</i>	North of Bismarck, near the intersection of 41 st Street NE and 84 th Avenue NE, along the south side of 84 th Avenue NE, east side of Arcata Drive and west side of 41 st Street NE.
<i>Project Size:</i>	19.7 acres
<i>Request:</i>	Zone and plat property for future rural residential development.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	2 parcels	<i>Number of Lots:</i>	7 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Rural residential
<i>Designated GMP</i> <i>Future Land Use:</i>	Conventional Rural Residential	<i>Designated GMP</i> <i>Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	A – 1 unit / 40 acres	<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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Staff Analysis

The proposed zoning change and plat are being requested for future single-family rural residential development on Lots 2-7, Block 1 of the proposed subdivision. There is an existing single-family dwelling on Lot 1, Block 1 and an accessory building on Lot 2, Block 1 of the proposed subdivision.

The applicant has indicated that the two buildings will remain. Staff has requested that Lots 1 and 2 be combined into one parcel after the plat is recorded in order for the property to remain conforming with the zoning ordinance. The owner may split the Lots 1 and 2 back into separate lots to construct a single-family dwelling on Lot 2 in the future.

The proposed subdivision is located within the Urban Service Area Boundary (USAB) and the requirement to ghost plat or create underlying lots for future urban densities is required. The applicant requested a waiver from this requirement. Staff is supportive of the request as the Future Land Use Plan in the 2014 Growth Management Plan, as amended identifies this area as rural residential.

Required Findings of Fact*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has not yet made a recommendation for the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;

6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The Hay Creek Township Board of Supervisors has not yet made a recommendation for the proposed preliminary plat;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;

9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A – Agricultural zoning district to the RR – Residential zoning district and tentative approval of the preliminary plat for Eden's Subdivision.

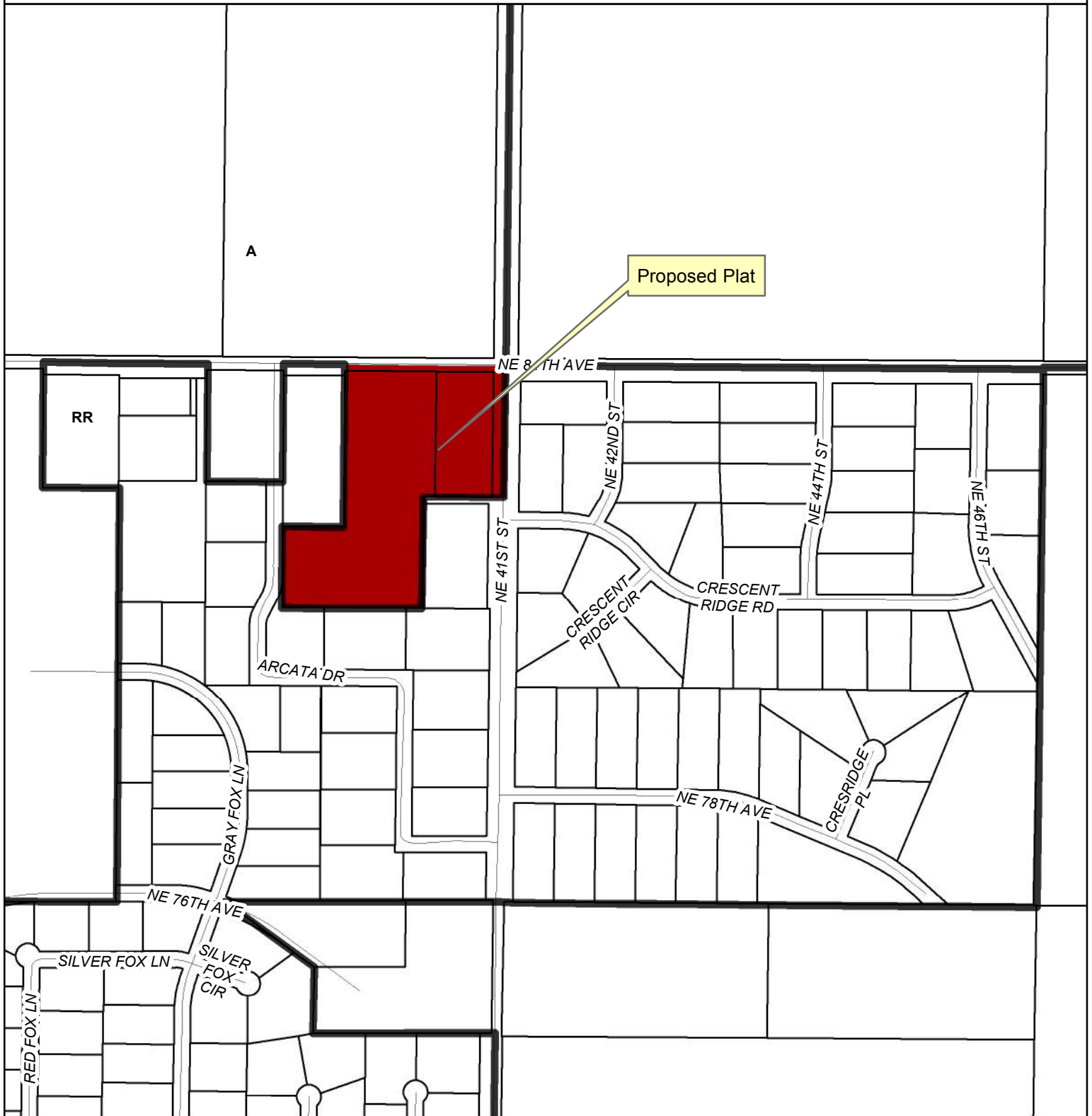
Attachments

1. Location Map
 2. Zoning Map
 3. Reduction of Preliminary Plat
-

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

Will Hutchings, Planner
701-355-1840 | whutchings@bismarcknd.gov

Proposed Plat and Zoning Change (A to RR) Eden's Subdivision



August 17, 2016 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 270 540 1,080 Feet



Eden's Subdivision

Existing zoning

A

NE 84TH AVE

ARCATA DR

NE 41ST ST

NE 42ND ST

CRESCENT RIDGE RD

GRAY FOX LN

RR

NE 76TH AVE

NE 78TH AVE

Proposed zoning

A

NE 84TH AVE

ARCATA DR

NE 42ND ST

CRESCENT RIDGE RD

GRAY FOX LN

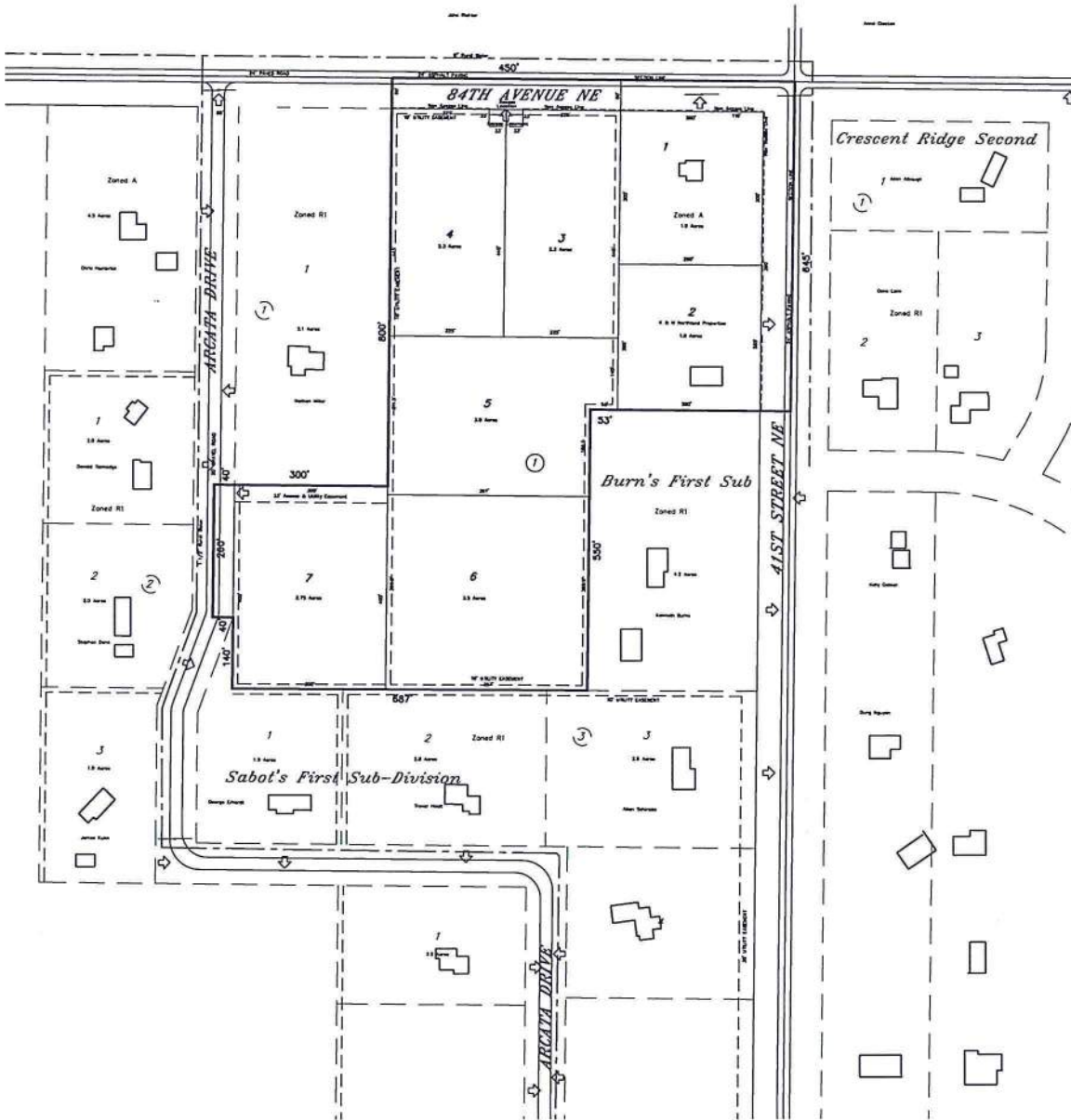
RR

NE 76TH AVE

A to RR

EDEN'S SUBDIVISION

PART OF THE NORTHEAST 1/4 OF SECTION 2, T 139 N, R 80 W
HAY CREEK TOWNSHIP
BURLEIGH COUNTY, NORTH DAKOTA



SCALE: 1"=100'
AUGUST 26, 2016

○ WORKMAN TO BE SET
● WORKMAN IN PLACE

NOTES

BASE OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY OF BISMARCK
COORDINATE SYSTEM
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
HAS ALL SOUTH ZONE
ADJUSTMENT OF 1983
UNITED STATES NATIONAL FEET
BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

RECORDING:
BOOK 1007
PAGE 1007
NORTHEAST CORNER OF LOT 9 BLOCK 1
BISMARCK VALLEY SUBDIVISION
ELEV. 1645.15 (NAD 83)

AREAS

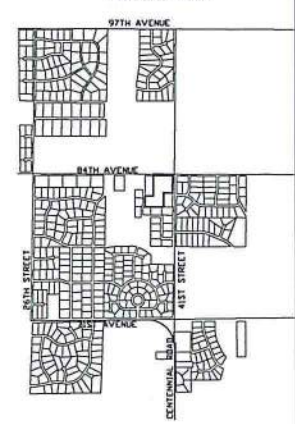
LOTS	18.8 ACRES
UNDEVELOPED	1.0 ACRES
TOTAL	19.8 ACRES

OWNER LOTS 3-7:
JERRY HAUFF
2213 PEBBLEVIEW LOOP
BISMARCK ND 58503

OWNER LOTS 1-2:
K & M NORTHLAND PROPERTIES
1854 VALLEY DRIVE
BISMARCK ND 58503

SURVEYOR:
SWENSON, HAGEN & CO.
909 BASIN AVENUE
BISMARCK ND 58504

LOCATION MAP



NOTE:
THE OWNER OF LOTS 5-7 INTENDS TO COMBINE
LOTS 5 & 7 INTO ONE PARCEL FOR HIS USE
AS A BUILDING SITE AT THIS TIME.
HE IS AWARE THAT A BUILDING PERMIT WILL BE ISSUED
ON ONE OF THE 3 LOTS
TO PREVENT A REPLAT IN THE FUTURE THESE LOTS
ARE PLATTED AS 3 SEPARATE SITES WITH A PRIVATE
DRIVE FOR ACCESS TO LOTS 5 & 6.

NOTE:
THE WATER SERVICE AGREEMENT BETWEEN THE CITY
OF BISMARCK AND SOUTH CENTRAL REGIONAL WATER
DISTRICT WILL ALLOW THE PROVISION OF WATER
SERVICE TO EDEN'S SUBDIVISION FOR A PERIOD OF 3
YEARS AND SUBSEQUENT TO THAT TIME, THE CITY MAY,
UPON A ONE YEAR NOTICE, REQUIRE SOUTH CENTRAL
REGIONAL WATER DISTRICT TO DISCONTINUE WATER
SERVICE IF CITY WATER SERVICE IS AVAILABLE.





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

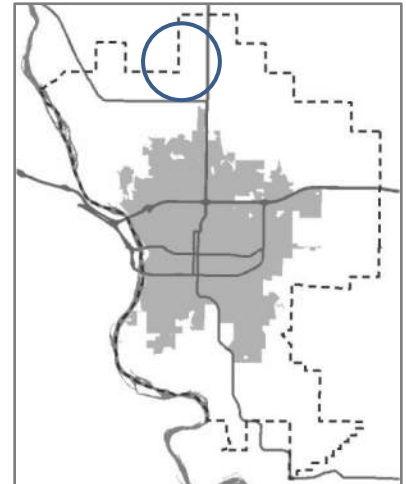
Agenda Item # 3
September 28, 2016

Application for: Major Subdivision Preliminary Plat

TRAKiT Project ID: PPLT2016-007

Project Summary

<i>Title:</i>	Harvest Ridge Subdivision First Replat
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Felton Developing, LLC
<i>Project Contact:</i>	Ken Nysether, PE, SEH
<i>Location:</i>	North of Bismarck, west of US Highway 83 and north of 84th Avenue NE along the north side of Watercress Avenue.
<i>Project Size:</i>	5.54 Acres
<i>Request:</i>	Replat property to allow development of three (3) single-family rural residential lots.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 lot in 1 block	<i>Number of Lots:</i>	3 lots in 1 block
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Rural residential
<i>Designated GMP Future Land Use:</i>	Conventional Rural Residential	<i>Designated GMP Future Land Use:</i>	Conventional Rural Residential
<i>Zoning:</i>	RR – Residential	<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture	<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet	<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

Property History

<i>Zoned:</i>	10/2012	<i>Platted:</i>	11/2012	<i>Annexed:</i>	N/A
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Staff Analysis

The proposed subdivision is being requested to allow development of three (3) single-family rural residential lots.

The applicant has submitted a waiver to use a cul-de-sac (Watercress Place) within the proposed subdivision. Staff is supportive of the waiver as there is steep topography and a natural drainway north of the proposed subdivision which would impede extension of this road.

Required Findings of Fact

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
7. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling tentative approval for the preliminary plat for Harvest Ridge Subdivision First Replat.

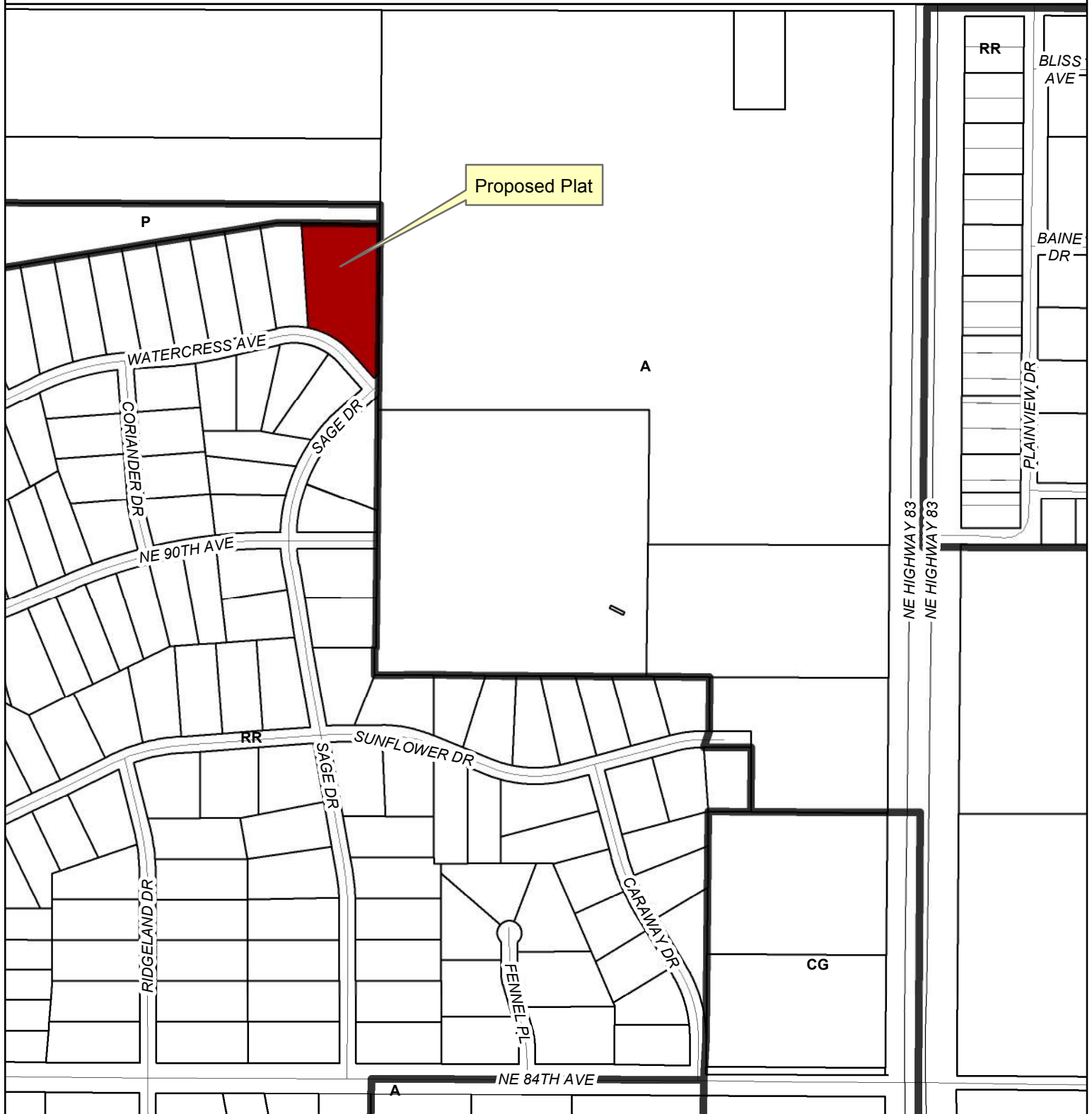
Attachments

1. Location Map
2. Reduction of Preliminary Plat

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

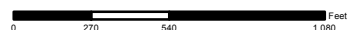
Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

Proposed Plat
Harvest Ridge Subdivision First Subdivision



August 26, 2016 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.







STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

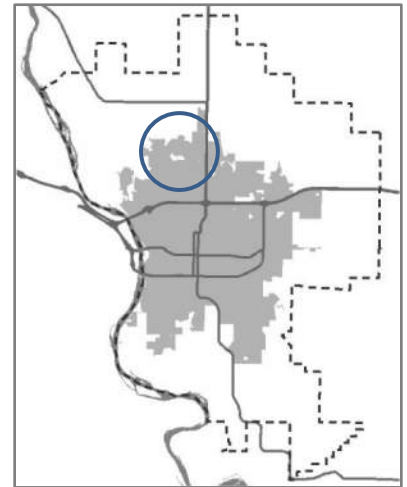
Agenda Item # 4
September 28, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-018

Project Summary

<i>Title:</i>	Sonnet Heights Subdivision Seventh Replat
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Calvert Creek Condos LLC
<i>Project Contact:</i>	Ken Nysether, PE, SEH
<i>Location:</i>	In north Bismarck, north of Canada Avenue, east of Normandy along the south side of Calvert Drive.
<i>Project Size:</i>	1.75 acres
<i>Request:</i>	Rezone property to allow the construction of single-family homes.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1	<i>Number of Lots:</i>	4
<i>Land Use:</i>	Undeveloped	<i>Land Use:</i>	Residential
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	RM30 – Residential	<i>Zoning:</i>	R10 – Residential
<i>Uses Allowed:</i>	RM30 – Multi-family residential	<i>Uses Allowed:</i>	R10 – Single and two-family residential
<i>Max Density Allowed:</i>	RM30 – 30 units / acre	<i>Max Density Allowed:</i>	R10 – 10 units / acre

Property History

<i>Zoned:</i>	Sonnet Heights 12/1980	<i>Platted:</i>	Sonnet Heights 12/1980	<i>Annexed:</i>	02/2007
	Sonnet Heights First Replat 5/2007		Sonnet Heights First Replat 9/2007		

Staff Analysis

The proposed zoning change is being requested to allow the construction of single-family homes and is in conjunction with a minor plat (Sonnet Heights Subdivision Seventh Replat) that is tentatively scheduled for public hearing at the October 26, 2016 meeting of the Planning and Zoning Commission.

The proposed zoning change would allow for the construction of single family homes within the proposed plat of Sonnet Heights Seventh Subdivision Replat and is adjacent to single and two-family dwelling units to the north, single-family dwelling units to the east, P-Public zoned property (drainage way) to the south and developing multi-family dwelling units (five row houses) to the west.

Required Findings of Fact

1. The proposed zoning change generally is outside the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RM30 – Residential zoning district to the R10 – Residential zoning district for Sonnet Heights Seventh Replat.

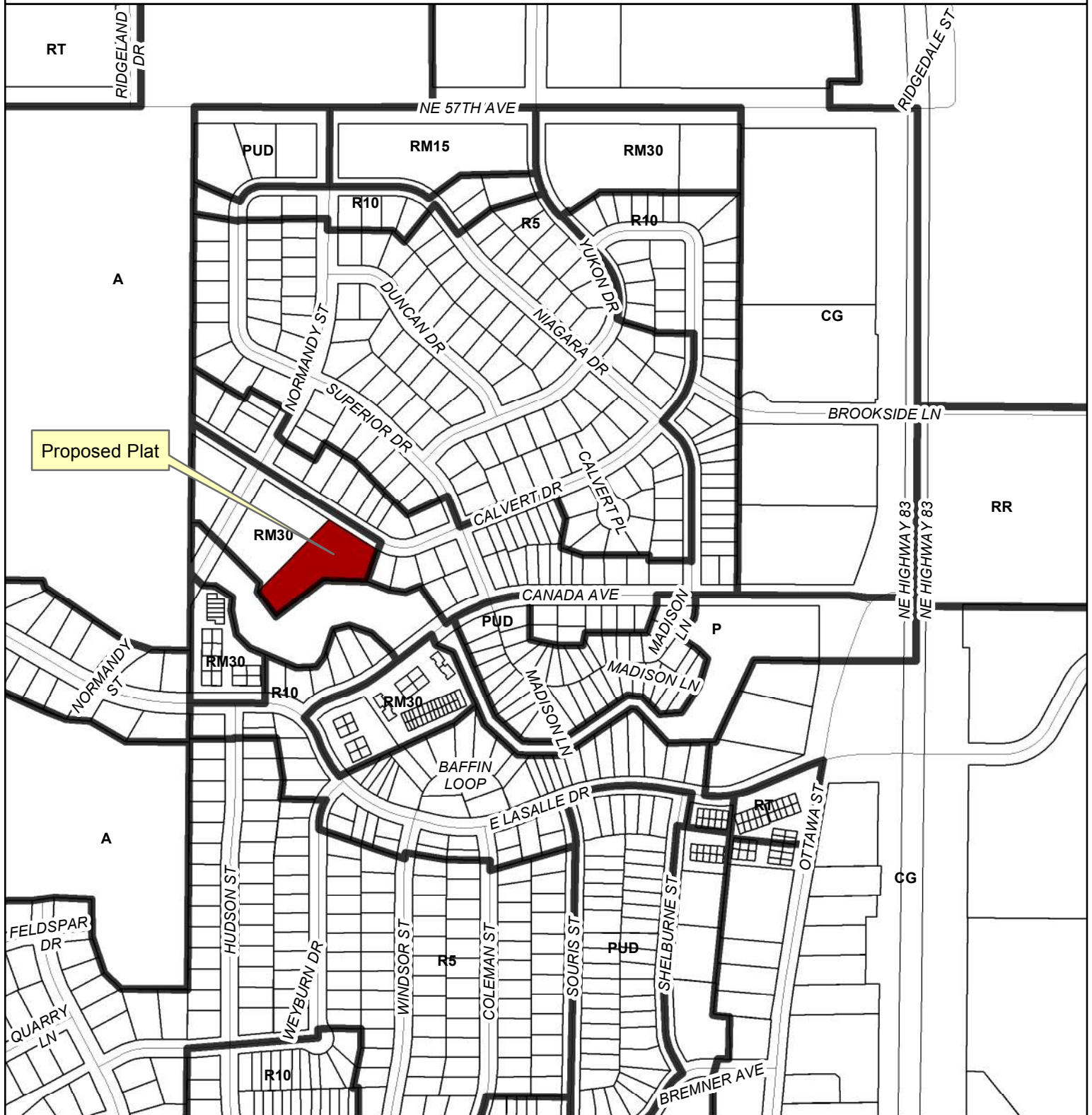
Attachments

1. Location Map
2. Zoning Map

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

Proposed Plat and Zoning Change (RM30 to R10) Sonnet Heights Subdivision Seventh Replat



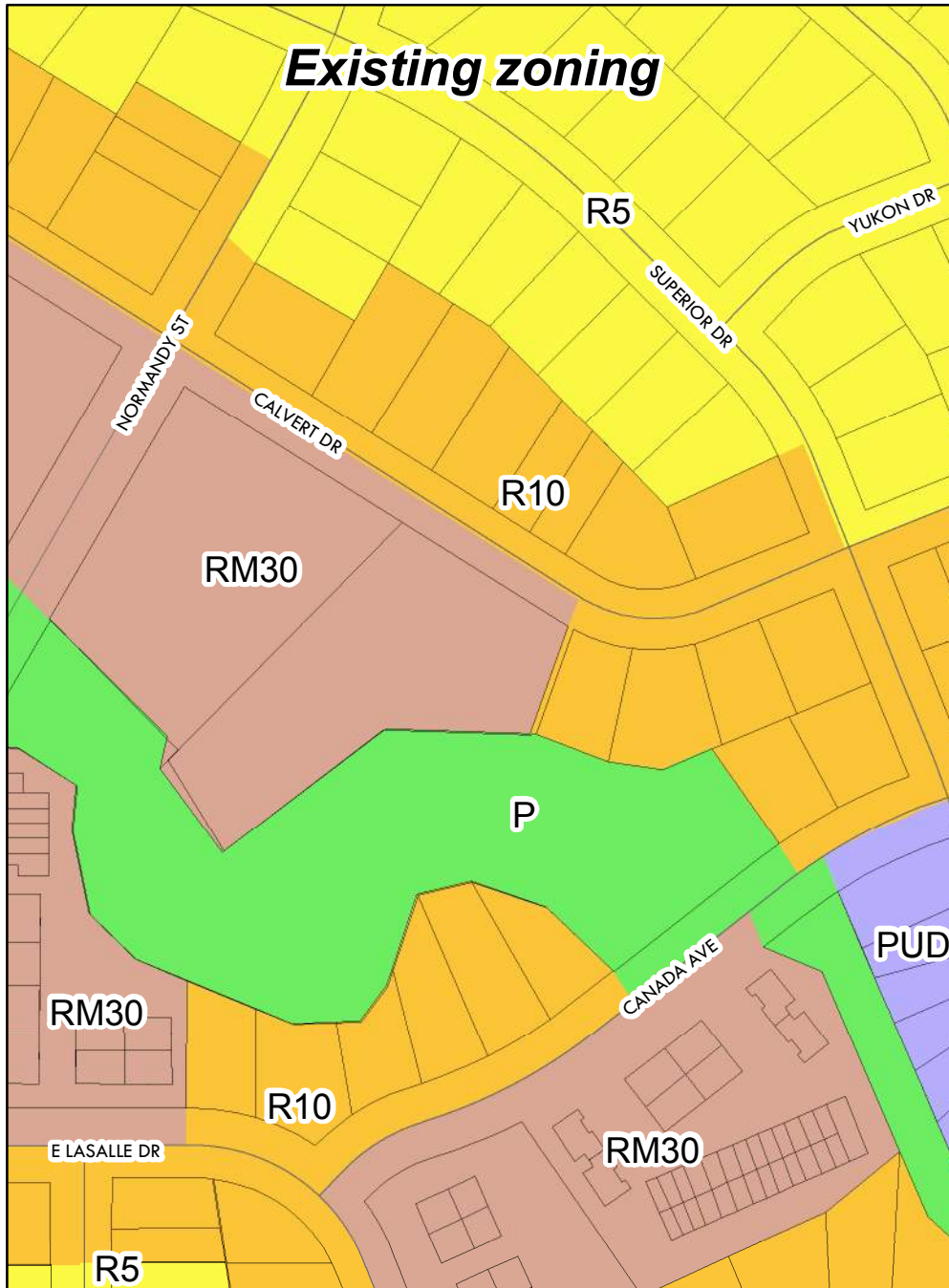
August 26, 2016 (h1b)

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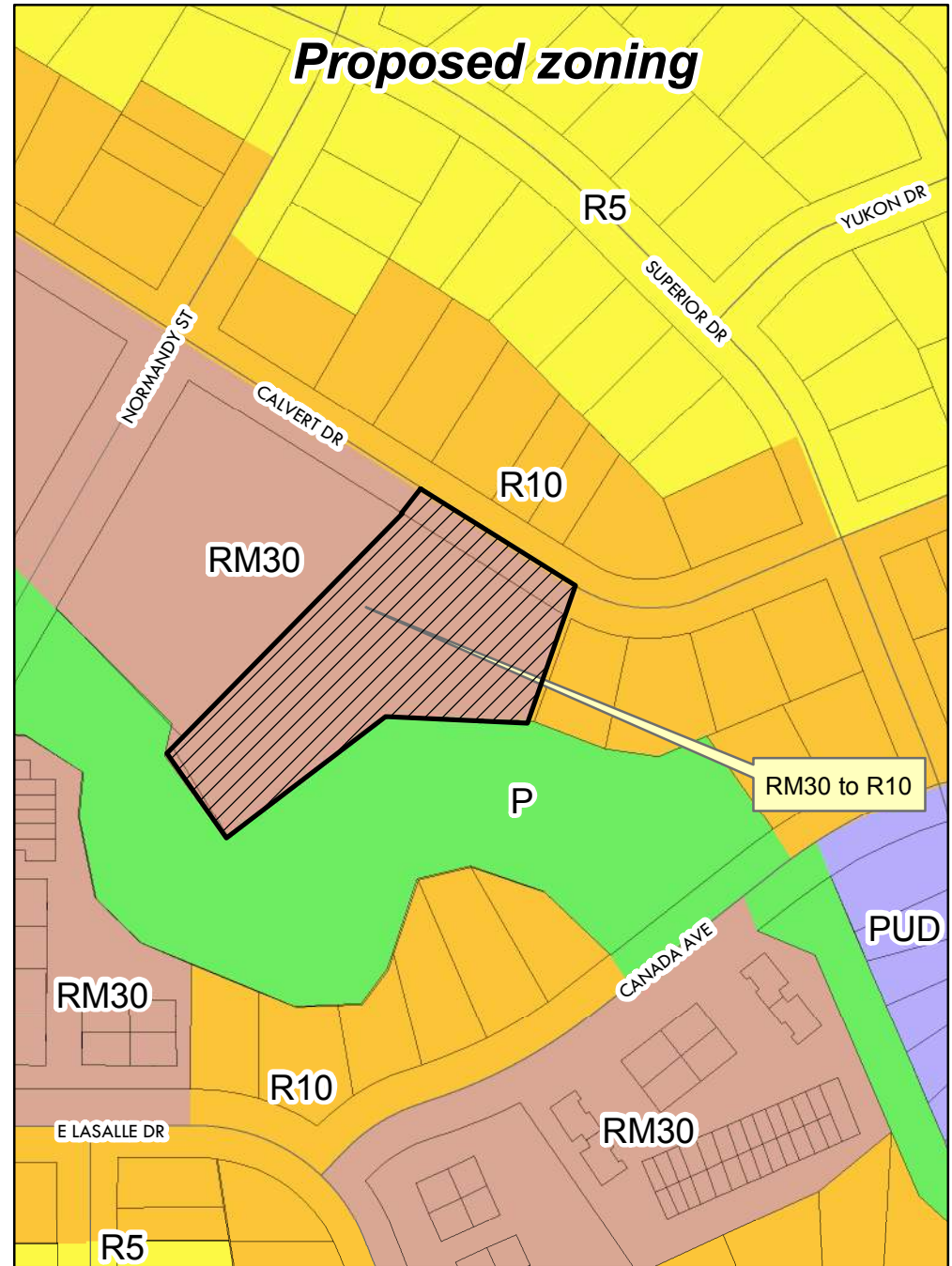


Lots 1-4, Block 1, Sonnet Heights Subdivision Seventh Replat

Existing zoning



Proposed zoning





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

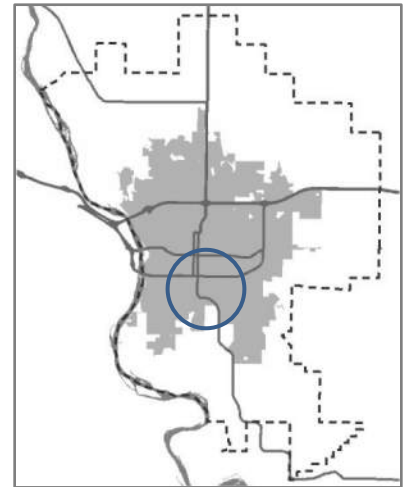
Agenda Item # 5
September 28, 2016

Application for: Zoning Change

TRAKiT Project ID: ZC2016-017

Project Summary

<i>Title:</i>	Auditor's Lots A and B of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 33, T139N-R80W (City Lands) and Lots 1 and 2, Block 1, Replat of Calkins Addition (1100 East Boulevard Avenue)
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Ruth Meiers Hospitality House, Inc.
<i>Project Contact:</i>	Steve Neu, Director of Organizational Development & Planning, Ruth Meiers Hospitality House, Inc.
<i>Location:</i>	In central Bismarck, along the east side of State Street at the intersection with and north of East Boulevard Avenue
<i>Project Size:</i>	4.04 acres, more or less (entire property)
<i>Request:</i>	Rezone property to allow expansion of services and programs to both tenants and non-tenants (Ruth Meiers Transitional Living and Community Services Center).



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	One parcel	<i>Number of Lots:</i>	One parcel
<i>Land Use:</i>	Multi-family residential	<i>Land Use:</i>	Multi-family residential and community-wide programs & services
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	RM30 – Residential	<i>Zoning:</i>	PUD – Planned Unit Development
<i>Uses Allowed:</i>	RM30 – Multi-family residential	<i>Uses Allowed:</i>	PUD – Uses specified in PUD
<i>Max Density Allowed:</i>	RM30 – 30 units / acre	<i>Max Density Allowed:</i>	PUD – Density specified in PUD

Property History

<i>Zoned:</i>	Pre-1980	<i>Platted:</i>	07/1951 (part)	<i>Annexed:</i>	Pre-1980
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Staff Analysis

Section 14-04-18 of the Bismarck Code of Ordinances (Zoning) indicates that the intent of the City's Planned Unit Development district is "to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space." A copy of this section is attached.

Adjacent land uses include the Capitol grounds to the west and northwest across State Street, single family residential to the north and northeast, a mix of multi-family residential and single family residential to the east, and mixed-density residential to the south across East Boulevard Avenue.

In Bismarck, a PUD zoning designation has been used to allow the adaptive re-use of existing buildings. Examples of these types of PUDs include Goebel Pediatric Dentistry office (Christian Science Reading Room), the Frankly Scarlett building (apartments), the Bismarck School District administrative offices (Hughes Middle School), the North Dakota Bar Association offices (CB Little House) and before and after-school programs for area families (Saxvik Elementary School).

The proposed PUD would allow the development of a community services center in part of the first floor of the building currently occupied by Ruth Meiers Hospitality House (1100 East Boulevard Avenue). The community services center would have a separate entrance in the southwest corner of the building and would be separated from the multi-family housing portions of the building by access-controlled doors. The community services center would provide a variety of services including a food pantry, baby boutique, children's learning center (child care center), salon, medical clinic (JoAnne's Clinic), training programs and educational seminars, and administrative offices for mission-aligned organizations. Many of these services are offered on-site to residents and the proposed zoning change would allow those services to be provided to low and moderate income families and individuals throughout the community. The nutritional services function would also be expanded to allow meals to be served to attendees of training programs and educational

seminars on-site and also to allow preparation of meals to be served at the Emergency Shelter at 303 North 23rd Street.

Neither a soup kitchen nor an emergency shelter would be allowed at this location.

Staff will continue to work with Ruth Meiers Hospitality House to further define the areas to be dedicated to various uses, off-street parking requirements and requirements related to the operation of a child care center.

Required Findings of Fact

1. The proposed zoning change is in a developed portion of the community and is outside of the area covered by the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is not completely compatible with adjacent land uses and zoning; however, it would allow the adaptive reuse of a portion of an existing building;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The character and nature of the proposed planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
7. The proposed planned unit development would preserve the natural features of the site insofar as possible, including the preservation of trees and natural drainage ways;
8. The internal roadway circulation system within the planned unit development has been

(continued)

adequately designed for the type of traffic that would be generated;

9. Adequate buffer areas have been provided between the planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the RM30 – Residential zoning district to the PUD – Planned Unit Development zoning district for Lots 1 and 2, Block 1, Replat of Calkins Addition and Auditor's Lots A and B of the SE ¼ of the NE ¼ of Section 33, T139N-R80W (City Lands), as outlined in the attached draft PUD ordinance.

Attachments

1. Section 14-04-18 of the City Code
2. Draft PUD Ordinance
3. Location Map
4. Zoning Map
5. Site Plan
6. Proposed Floor Plans
7. Written Statement

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

14-04-18. Planned Unit Developments. It is the intent of this section to encourage flexibility in development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the adequate and economical provision of streets and utilities; and to preserve the natural and scenic features of open space.

1. Site plan, written statement and architectural drawings. The application must be accompanied by a site plan, a written statement and architectural drawings:

a. Site plan. A complete site plan of the proposed planned unit prepared at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the planned unit. The site plan must contain, insofar as applicable, the following minimum information.

- 1) The existing topographic character of the land;
- 2) Existing and proposed land uses;
- 3) The location of all existing and proposed buildings, structures and improvements;
- 4) The maximum height of all buildings;
- 5) The density and type of dwelling;
- 6) The internal traffic and circulation systems, off-street parking areas, and major points of access to public right-of-way;
- 7) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;
- 8) Proposed interior buffer areas between uses;
- 9) Acreage of PUD;
- 10) Utility service plan showing existing utilities in place and all existing and proposed easements;
- 11) Landscape plan; and
- 12) Surrounding land uses, zoning and ownership.

b. Written statement. The written statement to be submitted with the planned unit application must contain the following information:

- 1) A statement of the present ownership and a legal description of all the land included in the planned unit;
- 2) An explanation of the objectives to be achieved by the planned unit, including building descriptions, sketches or elevations as may be required to described the objectives; and
- 3) A copy of all proposed condominium agreements for common areas.

c. Architectural drawings - the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door and window openings:

1) Elevations of the front and one side of a typical structure.

2) A perspective of a typical structure, unless waived by the planning department.

2. Review and approval.

a. All planned units shall be considered by the planning commission in the same manner as a zoning change. The planning commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.

b. All approved site plans for planned units, including modifications or conditions shall be endorsed by the planning commission and filed with the Director of Community Development. The zoning district map shall indicate that a planned unit has been approved for the area included in the site plan.

3. Standards. The planning commission must be satisfied that the site plan for the planned unit has met each of the following criteria:

a. Proposal conforms to the comprehensive plan.

b. Buffer areas between noncompatible land uses may be required by the planning commission.

c. Preservation of natural features including trees and drainage areas should be accomplished.

d. The internal street circulation system must be designed for the type of traffic generated. Private internal streets may be permitted if they conform to this ordinance and are constructed in a manner agreeable to the city engineer.

e. The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas.

4. Changes.

a. Minor changes in the location, setting, or character of buildings and structures may be authorized by the Director of Community Development.

b. All other changes in the planned unit shall be initiated in the following manner:

1) Application for Planned Development Amendment.

a) The application shall be completed and filed by all owners of the property proposed to be changed, or his/their designated agent.

b) The application shall be submitted by the specified application deadline and on the proper form and shall not be accepted by the Director of Community Development unless and, until all of the application requirements of this section have been fulfilled.

2) Consideration by Planning Commission. The planning commission secretary, upon the satisfactory fulfillment of the amendment application and requirements contained herein, shall schedule the requested amendment for a regular or special meeting of the planning commission, but in no event later than sixty (60) calendar days following the filing and acceptance of the application. The planning commission may approve and call for a public hearing on the request, deny the request or table the request for additional study.

3) Public Hearing by Planning Commission. Following preliminary approval of an amendment application, the Director of Community Development shall set a time and place for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the hearing. Not less than ten (10) days prior to the date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the planned unit development amendment. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Planning Commission may approve, approve subject to certain stated conditions being met, deny or table the application for further consideration and study, or, because of the nature of the proposed change, make a recommendation and send to the Board of City Commissioners for final action.

(Ord. 4364, 05-07-91; Ord. 4876, 11-25-97; Ord. 4946, 10-27-98; Ord. 5218, 11-26-02; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04; Ord. 5728, 05-26-09)

ORDINANCE NO.

<i>Introduced by</i>	_____
<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the RM30 – Residential zoning district and included within the PUD – Planned Unit Development zoning district.

Auditor’s Lots A and B of the SE¼ of the NE¼ of Section 33, T139N-R80W (City Lands) and Lots 1 and 2, Block 1, Replat of Calkins Addition.

This PUD is subject to the following development standards:

1. *Uses Permitted.* The use of the property shall be limited to the following:
 - a. Up to 52,000 square feet of permanent rental housing for low and moderate income tenants in efficiency, one-bedroom and two-bedroom apartments on the second and third floor of the main building and in the north building;
 - b. Up to 7,200 square feet of renewable 30-day residential program housing for low and moderate income tenants on the first, second and third floors of the main building;
 - c. Up to 26,000 square feet of community services and programs for low and moderate income tenants and non-tenants on the first floor, including:

- 1) Up to 4,500 square feet for a food pantry that provides groceries to families and individuals;
 - 2) Up to 200 square feet for a baby boutique that provides baby items to families and individuals;
 - 3) Up to 5,000 square feet for a children's learning center (child care center) that provides day care services to families;
 - 4) Up to 450 square feet for a salon that provides services to families and individuals;
 - 5) Up to 1,500 square feet for a medical clinic (JoAnne's Clinic) that provides basic and preventive medical services to families and individuals;
 - 6) Up to 6,000 square feet for administrative offices for Ruth Meiers Hospitality House and other mission-aligned organizations that provide services to families and individuals;
 - 7) Up to 4,500 square feet for community services including training programs, education seminars and space for small gatherings.
 - 8) Up to 3,300 square feet for nutritional services, including meal preparation for tenants, attendees of training programs and educational seminars, and for transport to be served at the Emergency Shelter (currently located at 305 North 23rd Street).
- d. Any use of the property not specifically included herein shall be prohibited, including the use of any portion of the property for an emergency homeless shelter or a soup kitchen.

3. *Development Standards.*

- a. **Site Plans and Building Plans.** Any modification of the site and building shall generally conform to the site plan and building layout plans submitted with the application for the Planned Unit Development.
- b. **Accessory Buildings.** Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure.
- c. **Parking and Loading.** A minimum of 136 off-street parking spaces shall be provided and any new off-street parking areas shall be landscaped in accordance with the provisions of Section 14-03-11 of the City Code of Ordinances (Landscaping and Screening).

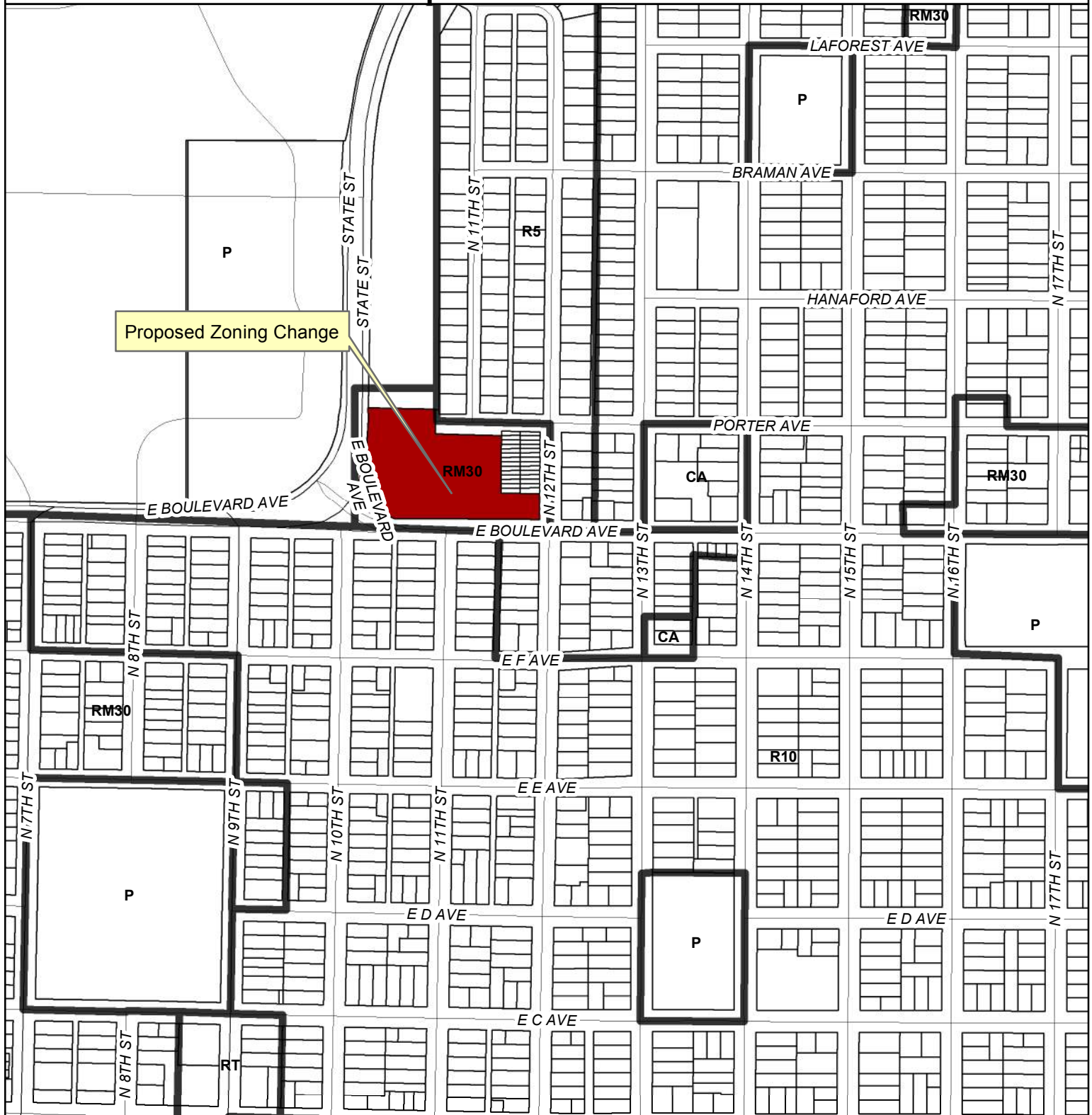
- c. **Signage.** Any signage for the facility shall be installed in accordance with the provisions of Chapter 4-04 of the City Code of Ordinances (Signs and Display Structures). Off-premise advertising signs (billboards) are specifically prohibited within this development.

4. ***Changes.*** This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and approval by the Bismarck Planning & Zoning Commission.

Section 2. **Repeal.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. **Taking Effect.** This ordinance shall take effect upon final passage, adoption and publication.

Proposed Zoning Change (RM30 to PUD)
Auditor's Lots A & B, lying in the NE1/4 of the SE1/4 of Section 33
Lands 139-80 and Lots 1 & 2, Block 1
Replat of Calkins Addition

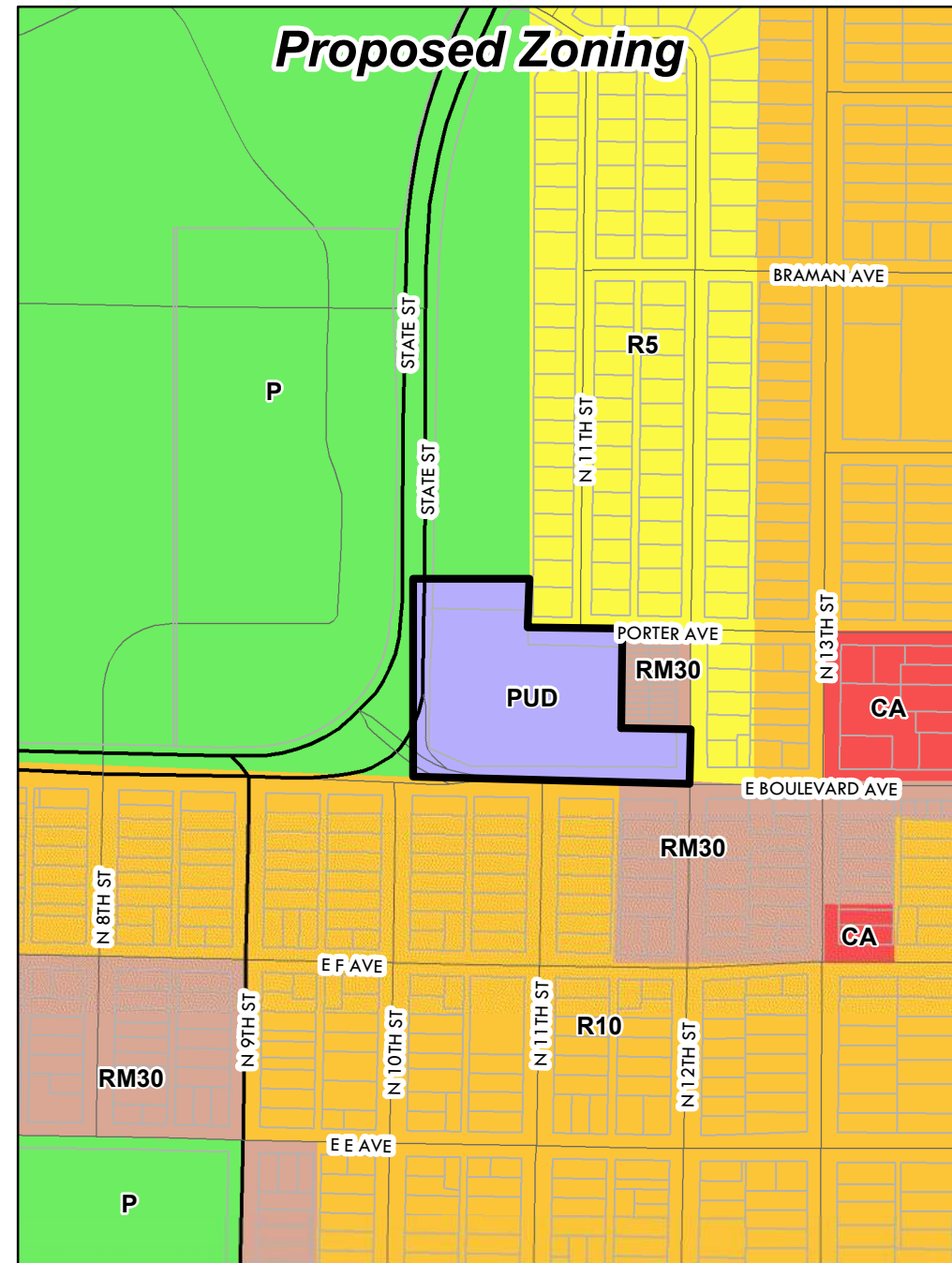
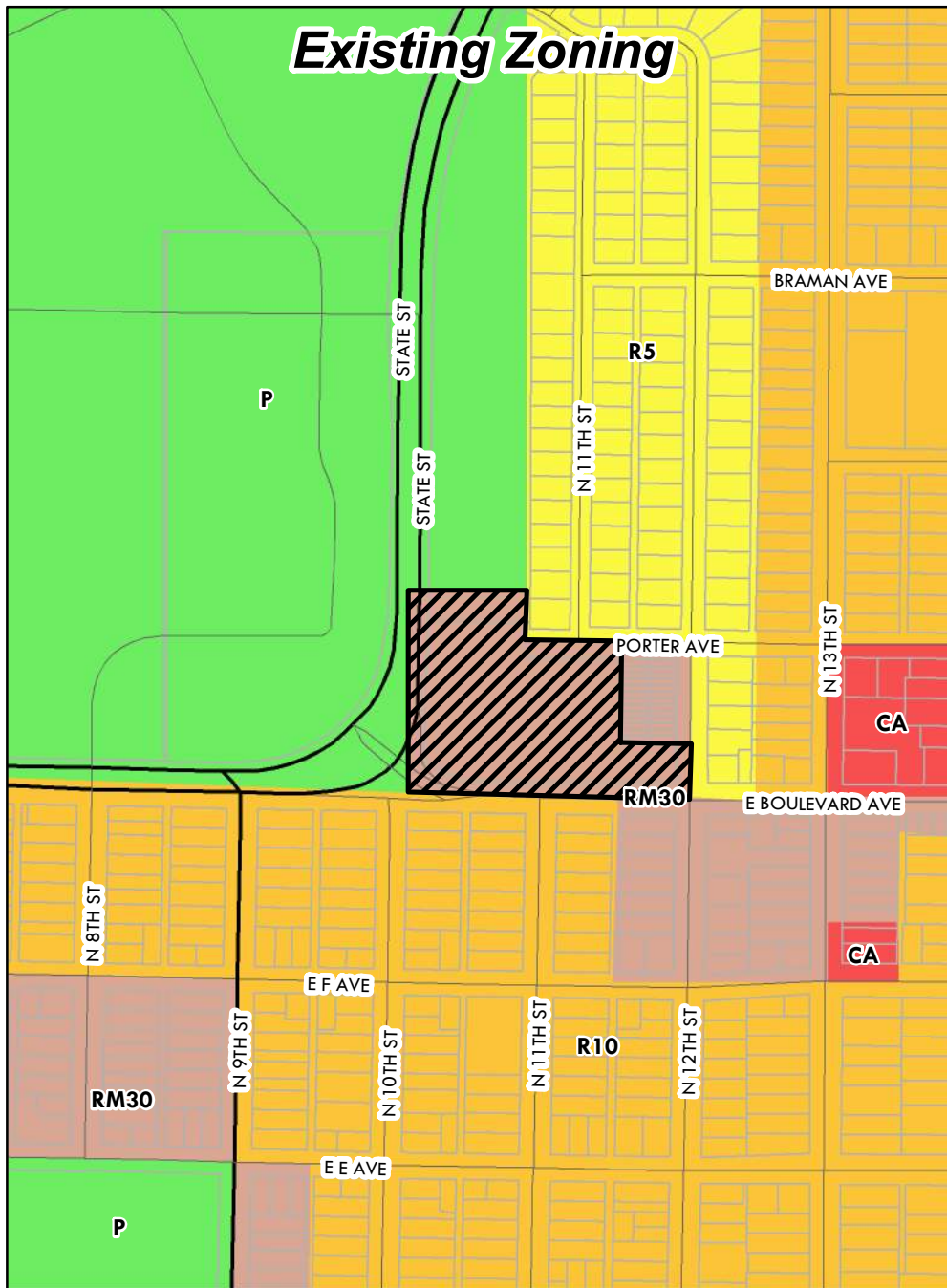



August 26, 2016 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Lots within Replat of Calkins Addition - Zoning Change (RM30 TO PUD)



 City Limits  Extraterritorial Area





SPACES	159
ADA SPACES	4

-  EXISTING STRUCT
-  EXISTING PARKING
-  MAJOR PORT OF ENTRY TO PUBLIC RIGHT OF WAY

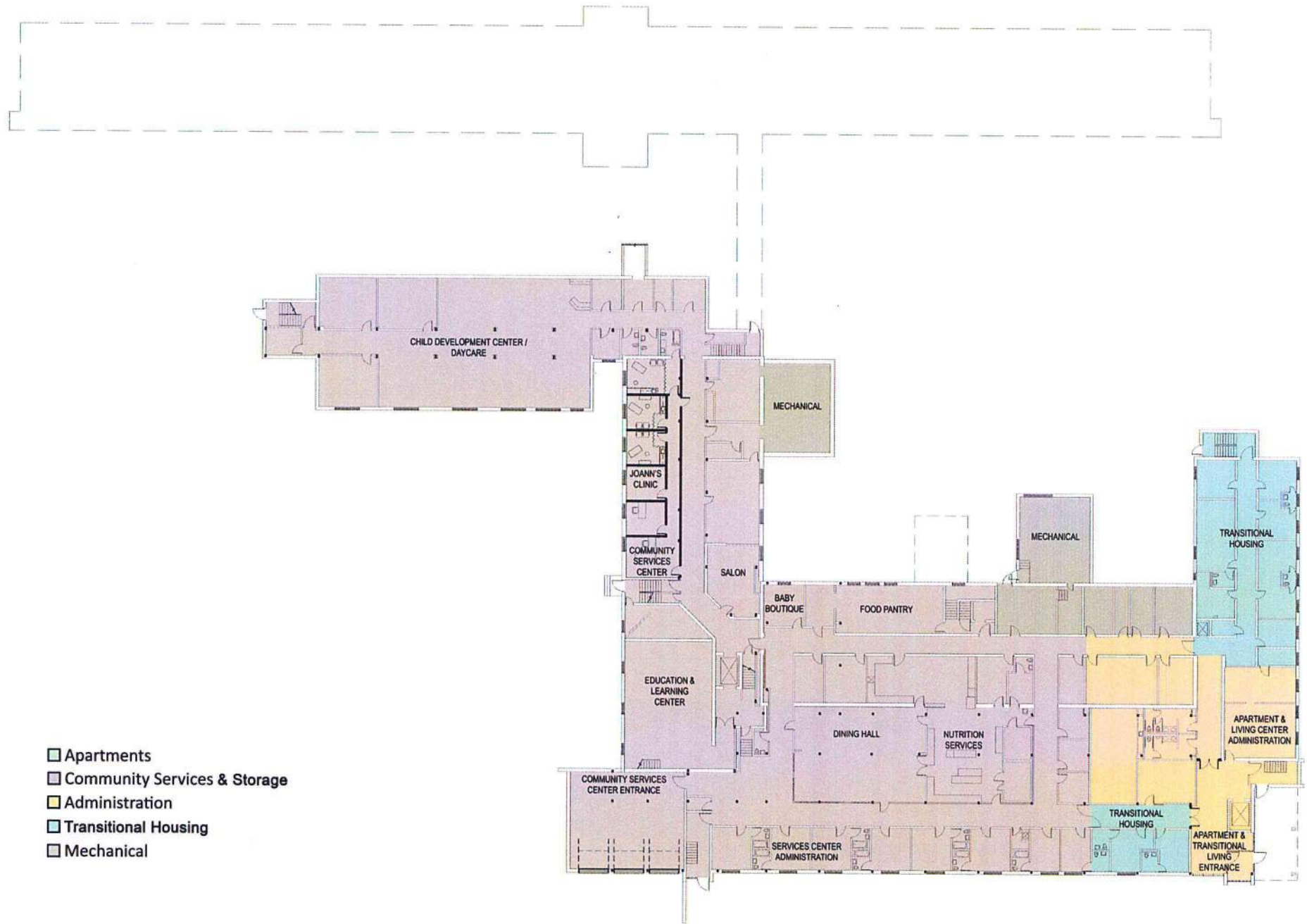
SITE NOTES

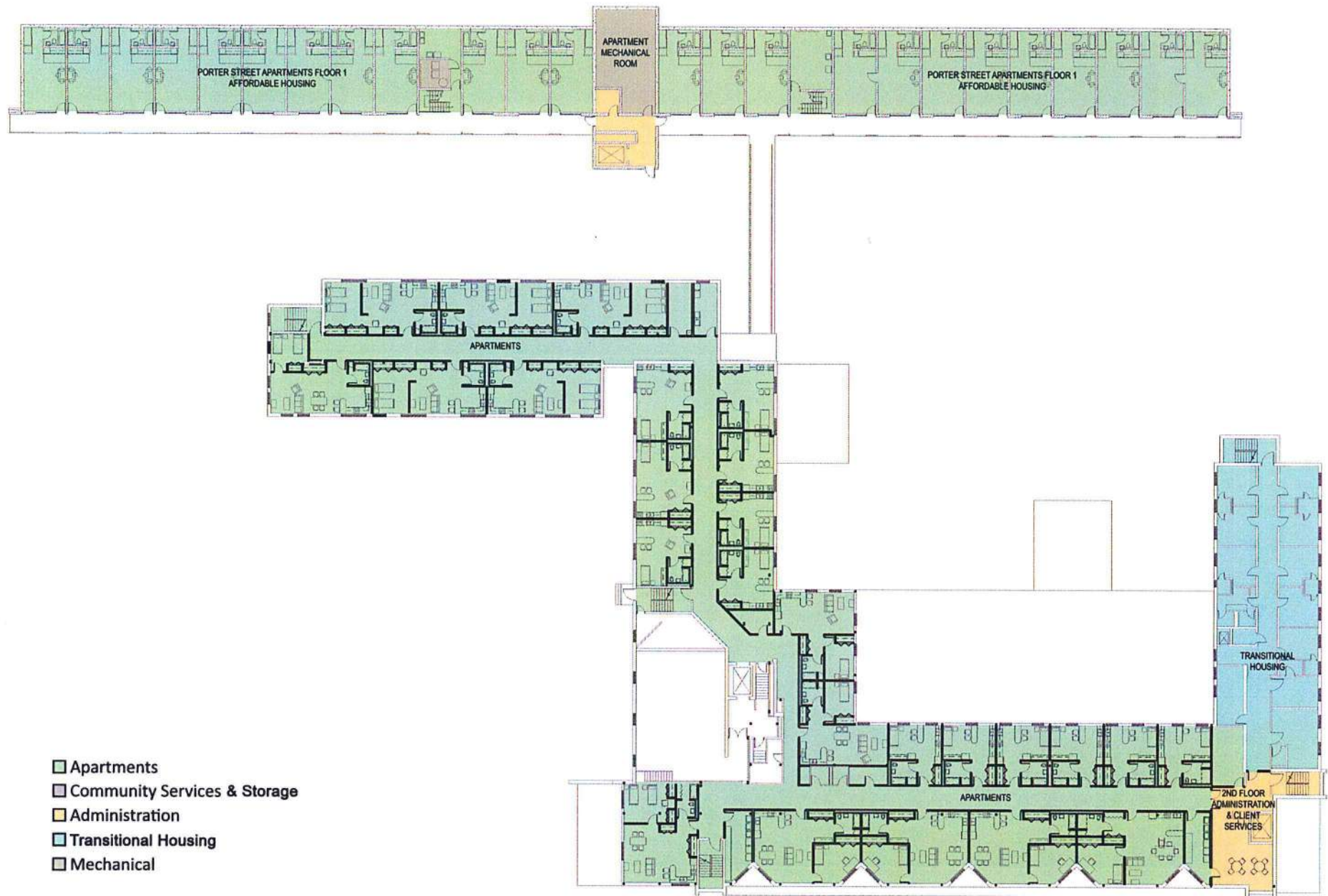
4.04 TOTAL ACRES

THERE ARE NO ADDITIONAL STRUCTURE, ALL EXISTING

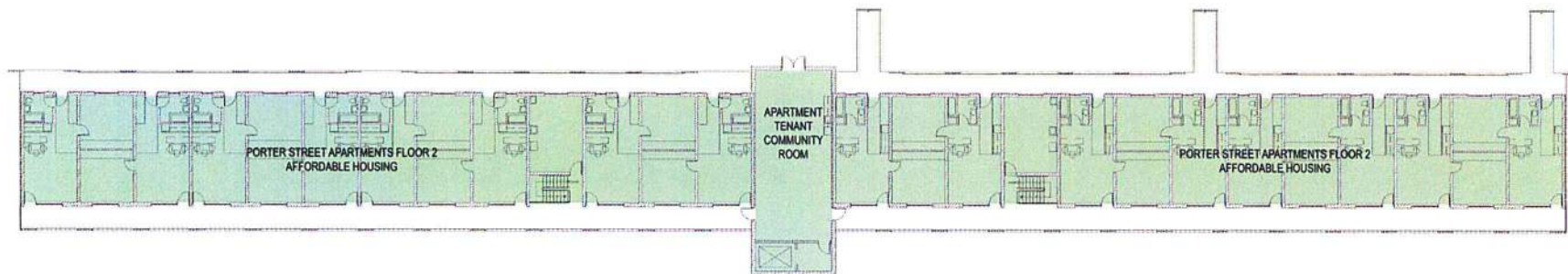
ALL EXISTING LAND USES TO REMAIN AS IS, W/
THE EXCEPTION OF A POTENTIAL PARKING
EXPANSION WHERE INDICATED

FINAL PARKING COUNT TO BE
CONFIRMED/VERIFIED W/ FINAL BUILDING PLAN
AND ZONING OFFICIAL





- Apartments
- Community Services & Storage
- Administration
- Transitional Housing
- Mechanical



- Apartments
- Community Services & Storage
- Administration
- Transitional Housing
- Mechanical

City of Bismarck - PUD Zoning Application

Written Statement

Present Ownership & Legal Description of All Land Included:

Ownership:

The land and all buildings are currently owned by Ruth Meiers Hospitality House, Inc.

Legal Description:

Lot Descriptions are currently being reviewed by the City

- Lot Descriptions:
- W: All of Block 36 exc. L1-2 + N 15' of L3 + all lots 30, 31 & 32 less parcel taken for Highway Row.
 - C: PT NE1/4 COM 85.52'N OF THE NE COR
BLK 96 MCK & COFF, E240', N310.48'
W240' S ON E LINE CAP PARK ADD TO
B EG #13383
 - E: L1 +2, B1 Replat of Calkins Addition

Explanation of Objectives

Ruth Meiers Hospitality House, Inc. is submitting this application for a zoning change from RM30 to PUD, for the "Ruth Meiers Transitional Living and Community Services Center," located at 1100 E. Boulevard Ave. This change is requested to allow for expansion of current services and programs being offered to our on-site resident /tenants and at our 23rd Street Shelter. This request will also allow Ruth Meiers to provide new and additional services and programs to the public and to collaboratively offer client-based programs and services within the center to local and western North Dakota mission-aligned organizations.

The requested change from RM30 to PUD would remove the previously prescribed limitations of use of RM30 zoning of the entire 1100 E. Boulevard facility and provide for Ruth Meiers to establish two distinct programming and service areas. These two areas would be managed as a Transitional Living Facility, providing a 30 day residential housing program, affordable housing units as apartments with tenant/residential services and as a Community Services Center providing residents and nonresident as well as outside agencies access to programs and services. These two distinct service areas with the proposed utilizations and accesses are described on the facility floor plans as attachment.

A PUD is required in order to meet the objectives and fully utilize facilities and to expand our programs and services at the transitional living facility and thru the services center to engage the public in Ruth Meiers' programs and services. The rezoning would allow Ruth Meiers to expand programming to include: off and on-site education and training, development of a collaborative Community Reintegration Program, greater utilization and coordination of the food pantry, job training and employment services, early childhood development and daycare, meal preparation to support Ruth Meiers' 23rd Street

Emergency Shelter and internal services, Ruth Meiers' administration and community organizations' outreach offices, and health and wellness services including the salon and clinic.

Ruth Meiers Hospitality House, Inc. is applying for a PUD at 1100 E Boulevard Ave, Bismarck, ND 58501 to develop greater utilization of the facility, expand services and program offerings for the community and to advance Ruth Meiers' purpose;

"to provide direct and collaborative support to those in need of essential services, education and guidance" and meet its mission;

"to provide pathways to empower individuals (families) in achieving self-sufficiency"

Architectural Drawings

As outlined in the application requirements, architectural drawings are required to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door & window openings. Since there will be no changes proposed with this application to the building's exterior appearance, floor plans for the proposed occupancies are provided.

User Groups:

Below is an outline of the User Groups and estimated square footage occupied through the PUD.

Proposed PUD User Groups:

- Transitional Living
 - o Apartments 52,000SF
 - o 30-Day Residential Program 7,200SF

- Retail Group A
 - o Food Pantry 4,500SF
 - o Baby Boutique 200SF
 - o Children's Learning Center 5,000SF
 - o Salon 450SF

- Offices-Bankgroup
 - o Administration 6,000SF
 - o Community Services 4,500SF

- Service Group A
 - O Nutrition Services 3,300SF
 - O JoAnne's Clinic 1,500SF



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 6
September 28, 2016

Application for: Annexation (Partial)

Future Land Use Plan Amendment

Zoning Change

Major Subdivision Final Plat

TRAKiT Project ID: ANNX2016-003

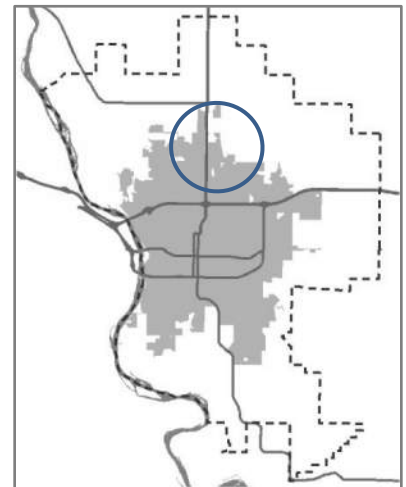
FLUP2016-002

ZC2016-015

FPLT2016-007

Project Summary

<i>Title:</i>	Memory 1 st Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Ronald and Ruth Knutson and RBK Ventures, LLP
<i>Project Contact:</i>	Michael Gunsch, PE, Houston Engineering Inc.
<i>Location:</i>	North of Bismarck, along the east side of US Highway 83/State Street and the north side of an eastern extension of 57 th Avenue NE.
<i>Project Size:</i>	66.53 acres
<i>Request:</i>	Partially annex, amend the Future Land Use Plan, rezone and plat property for future commercial and light industrial development.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	3 parcels	<i>Number of Lots:</i>	8 lots in 3 blocks
<i>Land Use:</i>	Agricultural/undeveloped	<i>Land Use:</i>	Commercial and light industrial
<i>Designated GMP</i>	Commercial	<i>Designated GMP</i>	Commercial
<i>Future Land Use:</i>	Industrial	<i>Future Land Use:</i>	Industrial
<i>Zoning:</i>	A – Agricultural	<i>Zoning:</i>	CG – Commercial MA – Industrial
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
<i>Max Density Allowed:</i>	A – 1 unit / 40 acres	<i>Max Density Allowed:</i>	CG – 42 units / acre MA – N/A

Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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Staff Analysis

The applicant is proposing to plat and zone the property for development in the future. As proposed, the development includes four lots for commercial development, three lots for light industrial development and one lot to privately manage storm water for the development.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies the area east and northeast of the Hay Creek corridor as Industrial. The proposed amendment would extend the Industrial land use classification southwest of Hay Creek west to North 19th Street. Although adjacent property is undeveloped, the land to the south across 57th Avenue NE is zoned CG – Commercial on the west side of North 19th Street and there is a combination of PUD – Planned Unit Development and MA – Industrial zoning on the east side of North 19th Street. The property to the north across 64th Avenue NE is zoned MA - Industrial. The property to the east between the proposed plat and US Highway 83 is zoned CG – Commercial and RR – Residential, although the Future Land Use Plan identifies this area as Commercial. Based on the future adjacent land uses, extending the Industrial classification to the west to North 19th Street would be appropriate, as would having North 19th Street serve as the dividing line between land uses.

Only a portion of the plat will be annexed at this time; however, all other lots must be annexed prior to development of the lot. The existing business on Lot 1, Block 1 (Memory Fireworks) will be moved to another location prior to annexation of that parcel, as fireworks sales are not allowed within the corporate limits.

The 10-foot wide multi-use trail along the Hay Creek corridor will be extended north into this area along the east side of North 19th Street when it is constructed. As no urban residential uses are included within the proposed plat, it is not subject to the Neighborhood Parks and Open Space provisions.

The North Dakota Department of Transportation has indicated that the frontage road access point on 57th Avenue NE would need to be closed in conjunction with development of this subdivision. It is unclear if this is expected to occur immediately, or upon improvements to 57th Avenue NE and North 19th Street north of 57th Avenue NE.

Required Findings of Fact

Annexation

1. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Future Land Use Plan Amendment

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended;
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;

(continued)

5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Zoning Change

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, if amended as proposed;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
6. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
7. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
8. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
9. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The stormwater management plan for the subdivision has not yet been approved by the City Engineer, nor has written concurrence from the County Engineer been received;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends holding the public hearing but continuing final action on all items until the storm water management plan is approved by the City Engineer, with written concurrence of the County Engineer.

If the storm water management plan is approved by the City Engineer, with written concurrence from the

(continued)

County Engineer, prior to the Planning and Zoning Commission meeting, staff will change its recommendation to:

Based on the above findings, staff recommends approval of the partial annexation; the proposed amendment to the Future Land Use Plan to extend the Industrial classification in the southwest portion of the SW¼ of Section 10, T139N-R80W west to the future extension of North 19th Street from 57th Avenue NE north to where Hay Creek crosses North 19th Street; the zoning change from the A – Agricultural zoning district to the CG – Commercial zoning district on Lots 1 & 2, Block 1 and Lots 1 & 2, Block 2 and to the MA – Industrial zoning district on Lots 1-4, Block 3; and the final plat for Memory 1st Addition, with the understanding that individual lots will be annexed and

that all municipal services needed to serve the lot, including roadways and utilities, will be in place or under contract prior to development of the lot.

Attachments

1. Location Map
 2. Annexation Location Map
 3. Annexation Map
 4. Future Land Use Plan Map
 5. Zoning Map
 6. Reduction of Final Plat
 7. Reduction of Preliminary Plat
 8. Written Justification for FLUP Amendment
-

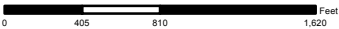
Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

Proposed Plat and Zoning Change (A to CG & MA) Memory 1st Addition



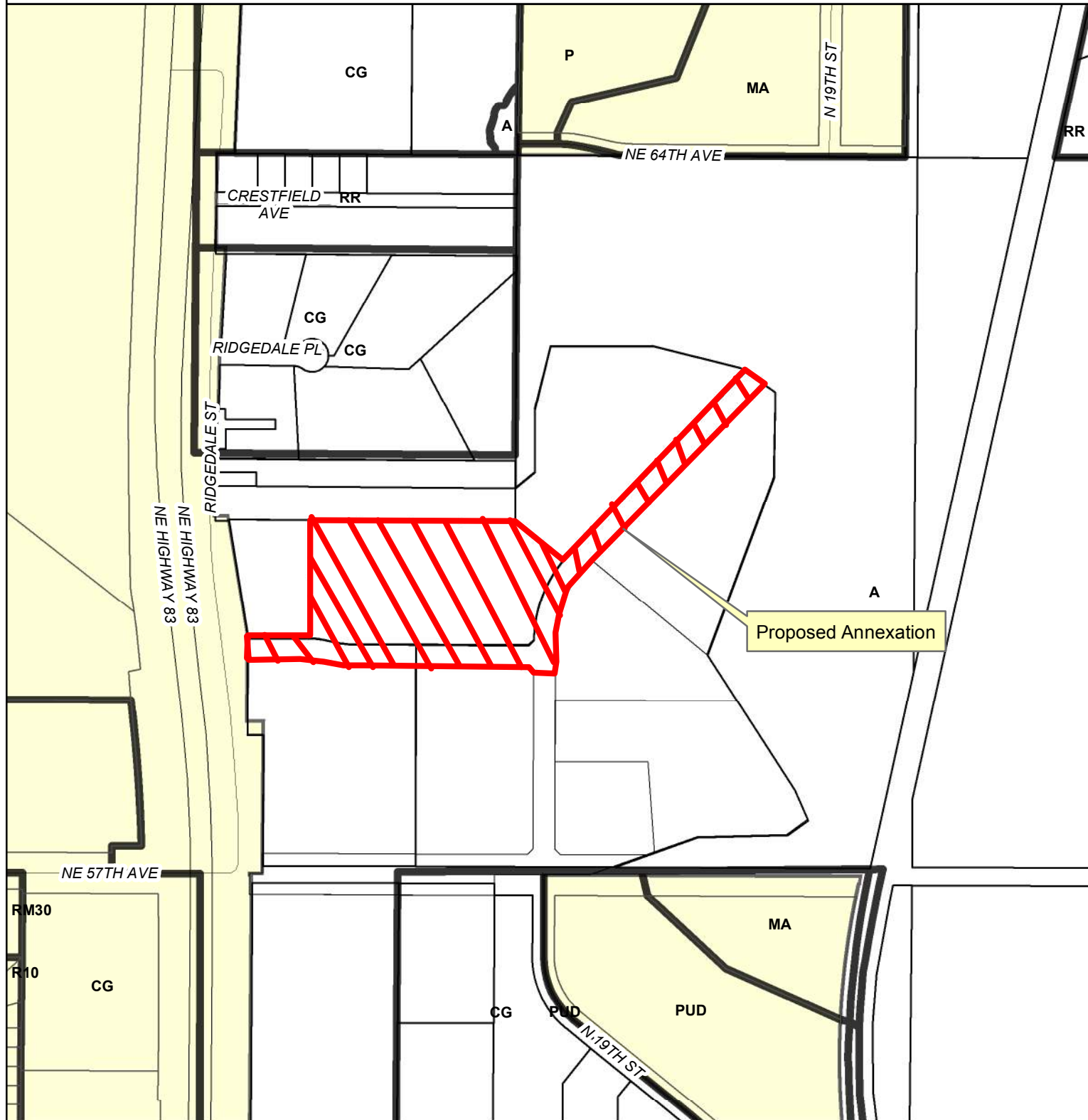
August 31, 2016 (klee)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Proposed Annexation

Lot 1, Block 2, and the proposed Elbowoods Lane and North 19th Street rights-of-way, Memory 1st Addition

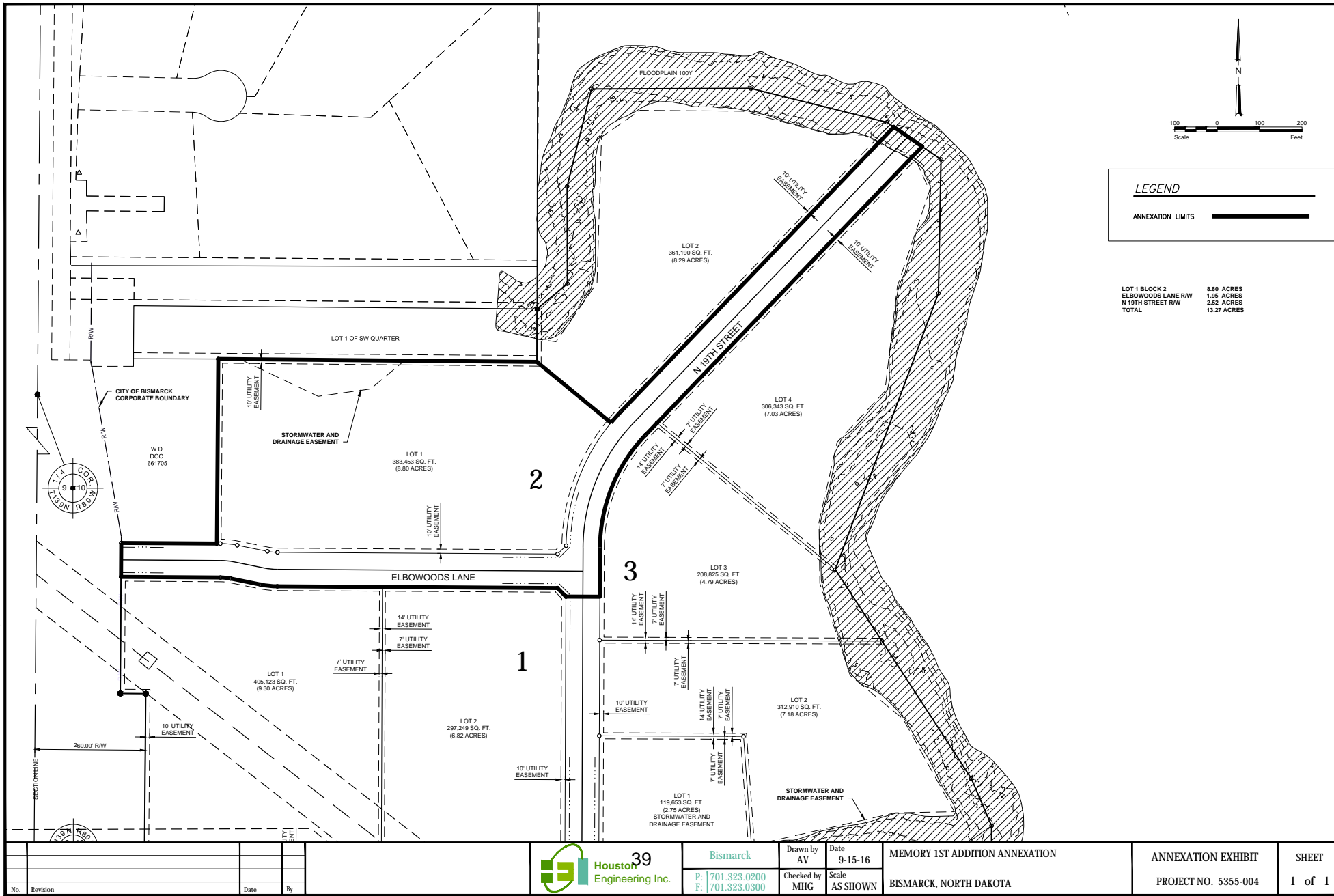


August 31, 2016 (klee)

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14. Bismarck VHS 5355 Plan Extension - Section 9 and Section 10 - 139.40.5355-004 Section 10 Development CAD (P&T) Annexation Lot 1 Block 2.dwg Layout 19 (19/2018 7:10 AM (start))



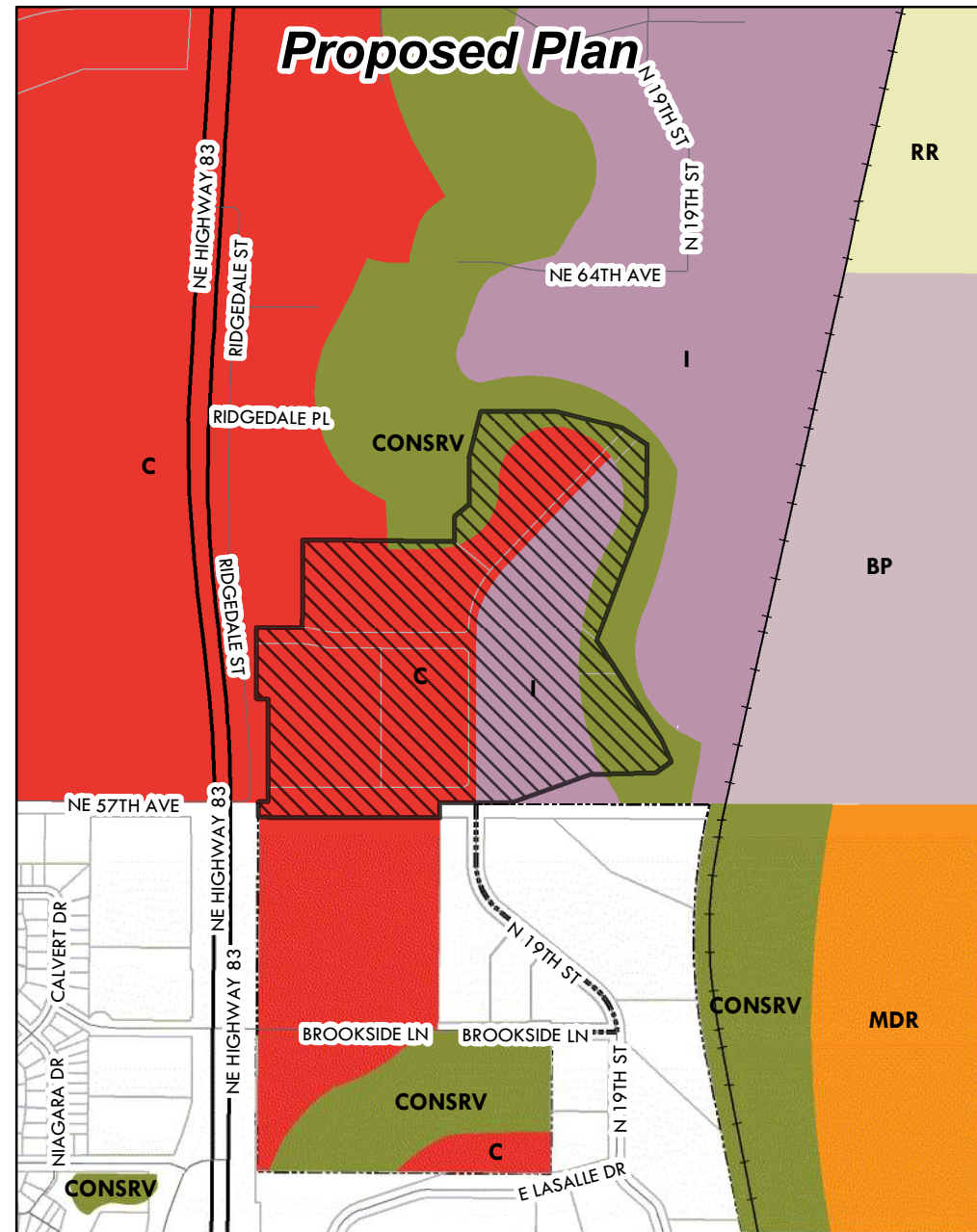
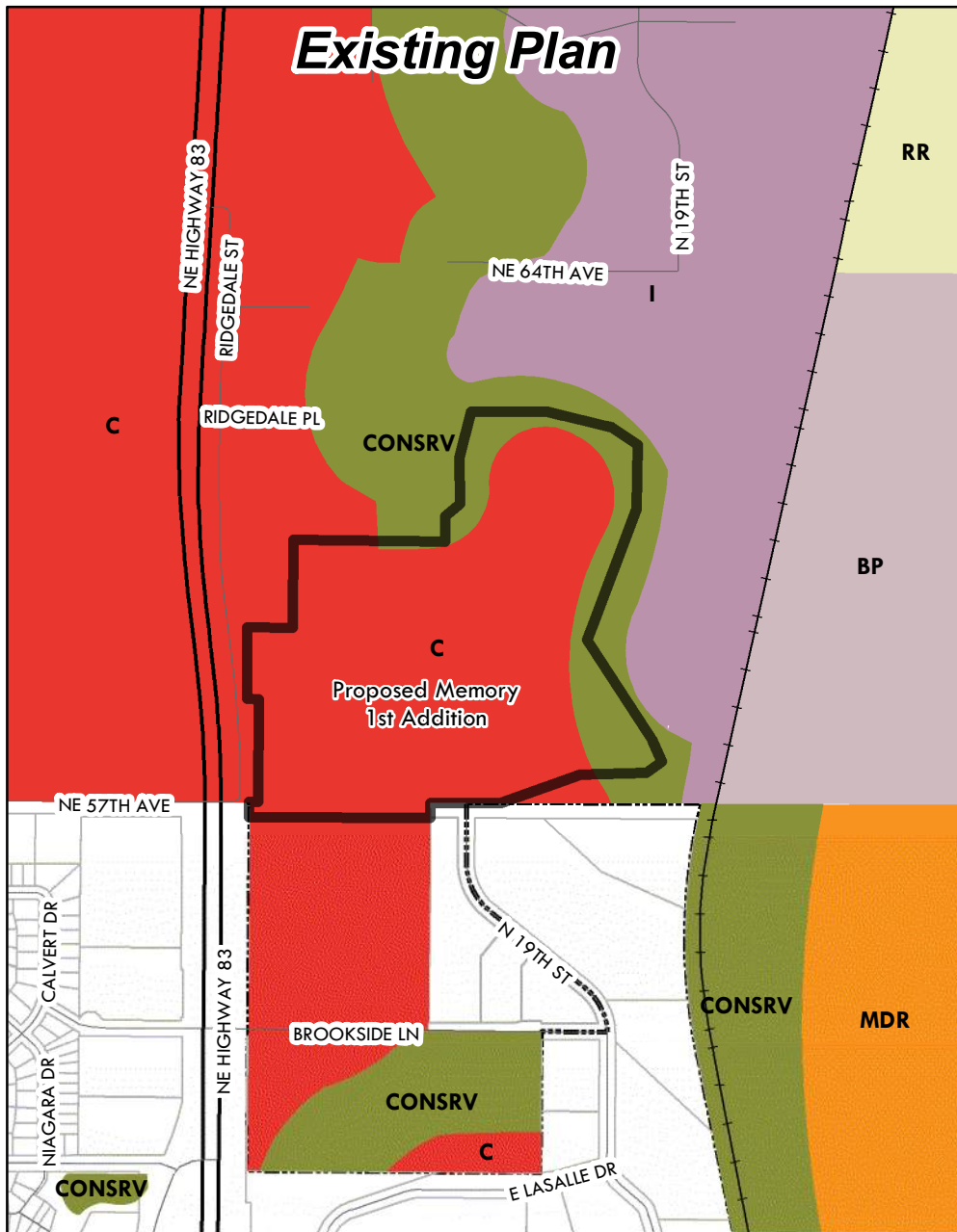
No.	Revision	Date	By



Bismarck	Drawn by AV	Date 9-15-16
P: 701.323.0200 F: 701.323.0300	Checked by MHG	Scale AS SHOWN

MEMORY 1ST ADDITION ANNEXATION	ANNEXATION EXHIBIT	SHEET
BISMARCK, NORTH DAKOTA	PROJECT NO. 5355-004	1 of 1

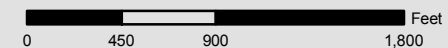
Memory 1st Addition - Future Land Use Plan Change (C to I)



LDR = Low Density Residential
MDR = Medium Density Residential
HDR = High Density Residential
C = Commercial

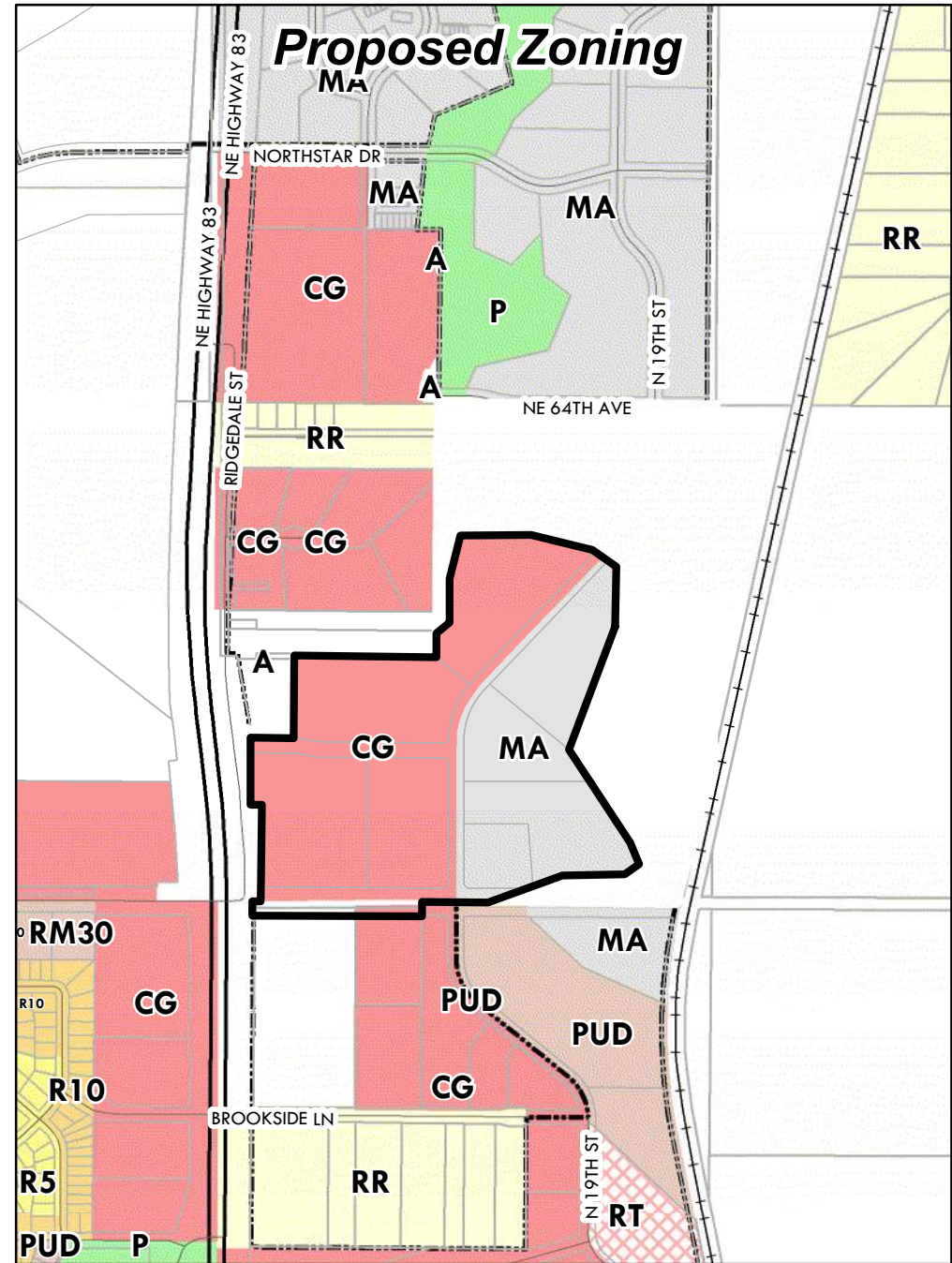
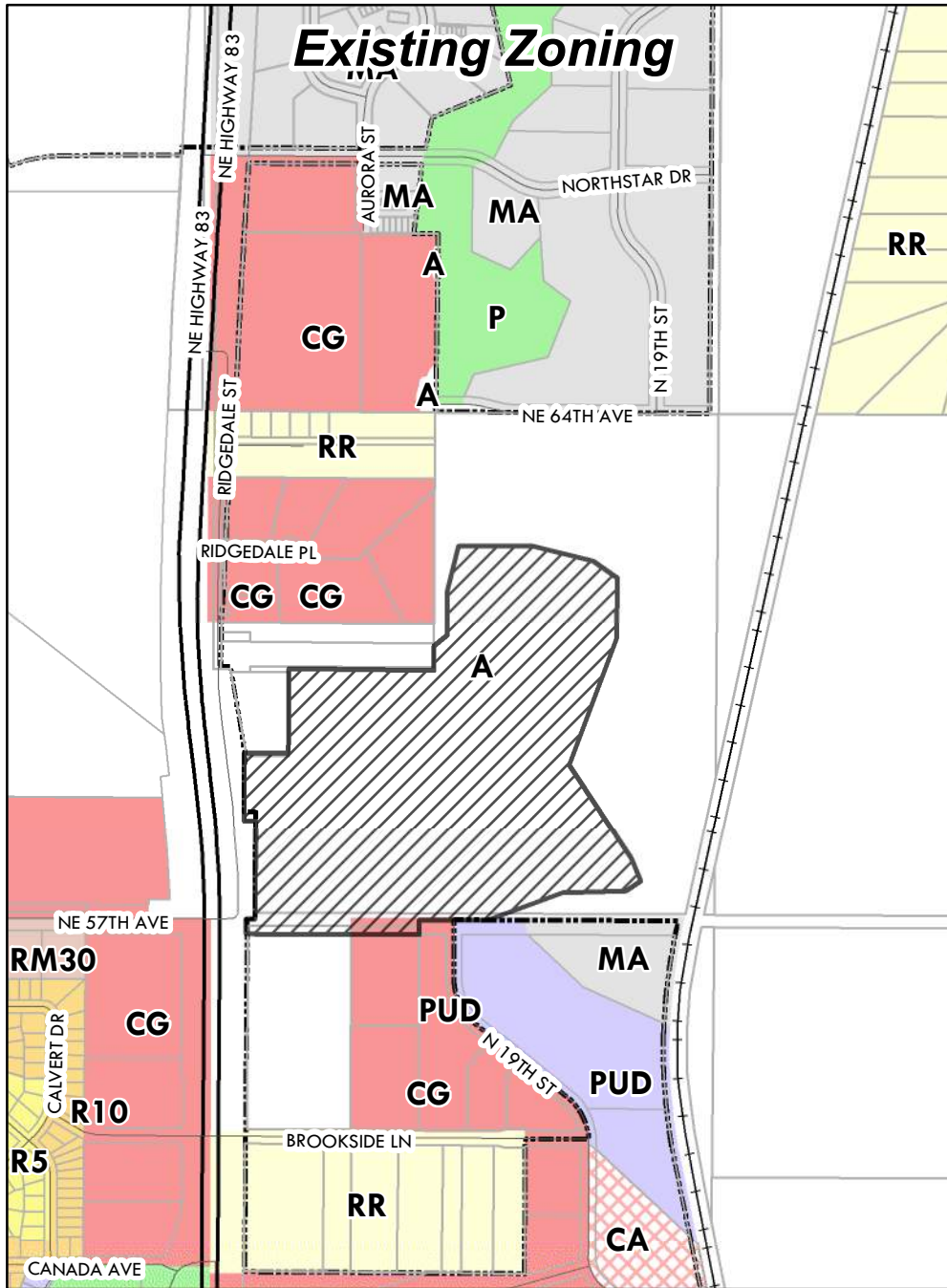
CONSRV = Conservation
RR = Rural Residential
MDR/MU = Medium Density Residential Mixed Use



This map is for representational use only and does not represent a survey.
No liability is assumed as to the accuracy of the data delineated hereon.



September, 2016

Memory 1st Addition

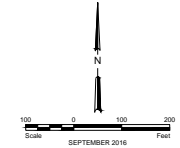


 City Limits  Extraterritorial Area



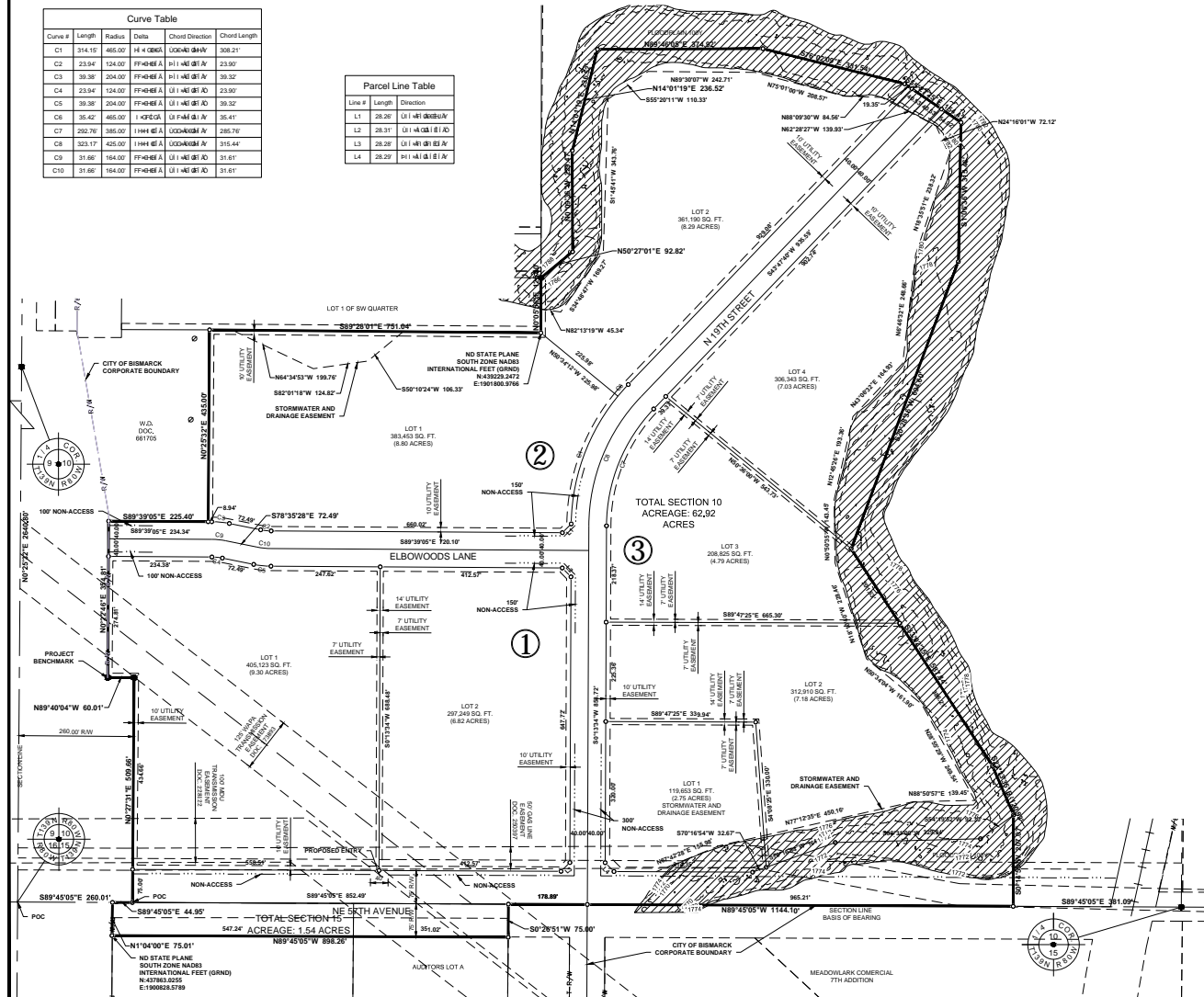
MEMORY 1ST ADDITION

AUDITOR'S LOTS B, C, D AND PART OF AUDITOR'S LOT A OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 139 NORTH, RANGE 80 WEST AND THE NORTHERLY 75.00 FEET OF AUDITOR'S LOT A OF THE NORTHWEST QUARTER AND THE NORTHERLY 75.00 FEET OF THE WESTERLY 761.50 FEET OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, LESS U.S. HIGHWAY 83 RIGHT-OF-WAY
SECTION 15, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA.



Curve #	Length	Radius	Data	Chord Direction	Chord Length
C1	314.15	465.00	H 4 0800	U 140 00 00 N	308.21
C2	23.94	124.00	FF 40 00 A	S 11 40 00 N	23.90
C3	39.38	204.00	FF 40 00 A	S 11 40 00 N	39.32
C4	23.94	124.00	FF 40 00 A	U 11 40 00 N	23.90
C5	39.38	204.00	FF 40 00 A	U 11 40 00 N	39.32
C6	35.42	465.00	I 4 0800	U 140 00 00 W	35.41
C7	250.76	385.00	I 4 0800	U 140 00 00 W	250.79
C8	323.17	425.00	I 4 0800	U 140 00 00 W	315.44
C9	31.86	164.00	FF 40 00 A	U 11 40 00 N	31.81
C10	31.86	164.00	FF 40 00 A	U 11 40 00 N	31.81

Line #	Length	Direction
L1	28.26	U 11 40 00 00 W
L2	28.31	U 11 40 00 00 N
L3	28.28	U 11 40 00 00 N
L4	28.29	S 11 40 00 00 N



PLAT INFORMATION
EXISTING ZONING: AGRICULTURAL
PROPOSED ZONING: MA LIGHT INDUSTRIAL
LOT ACRES: (1) 61.0000
RIGHT OF WAY SECTION 10 ACRES: 62.9200
RIGHT OF WAY SECTION 15 ACRES: 1.5400
TOTAL ACRES: 64.4600

BASIS OF BEARINGS: ND STATE PLANE SOUTH ZONE NAD83 (3302), ADJUSTMENT 1986 UNIT OF MEASURE IS INTERNATIONAL FEET.
CONTOUR VERTICAL DATUM: NAVD 88
FLOODPLAIN VERTICAL DATUM: NAVD 88
TOPOGRAPHIC CONTOURS ARE DERIVED FROM SURVEY

BENCHMARK
WEST CORNER OF LOT 1 BLOCK 1
ELEV. 1946.02 NAVD 88

UNBUILDABLE LOTS
LOT 1 BLOCK 3 - STORMWATER AND DRAINAGE EASEMENT

NOTE A:
THE PROPOSED 40.00 FOOT WIDE PRIVATE ACCESS ON THE NORTH SIDE OF 5TH AVENUE, WEST OF US 83 AND EAST OF YUKON, SHALL BE RESTRICTED IN THE FUTURE. A FULL ACCESS WILL BE ALLOWED ON TO 5TH AVENUE ON A TEMPORARY BASIS. WHEN 5TH AVENUE IS IMPROVED TO AN URBAN ROADWAY SECTION, OR TRAFFIC OPERATIONS DICTATES, OR SAFETY WARRANTS RESTRICTION, THIS ACCESS SHALL BE RESTRICTED AS NECESSARY TO PROTECT PUBLIC SAFETY, AND MINIMIZE IMPACTS TO ROADWAY CAPACITY.

LEGEND
PLAT BOUNDARY
LOT LINE
EASEMENT
NON ACCESS LINE
IRON MONUMENT FOUND
IRON MONUMENT SET
MEASURED DISTANCE
MEASURED BEARING
FLOODWAY

FLOODPLAIN - 100YR
1751 (NORTH) TO
1775 (SOUTH)

FEMA MAP NO. 38015C078D
REVISED AUGUST 4, 2014

Houston Engineering Inc.

Bismarck

P: 701.323.0300
F: 701.323.0300

\\Barnard\Barnard\BMA\5355 Ron Kruttschnitt - Section 9 and Section 10, 139 80\5355-004 Section 10 Development\CAD\PLT\Final Plot sj.dwg-Memory Sign-8/13/2016 4:19 PM--(ovitted)

OWNER'S CERTIFICATE AND DEDICATION

HE ALSO DEDICATES EASEMENTS TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, STORMWATER, WATERMAIN, AND/OR UTILITY EASEMENTS.

RONALD KNUTSON
TPR PARTNERSHIP LLP
555 HIGHWAY 1805
BISMARCK, ND 58503

STATE OF NORTH DAKOTA)
COUNTY OF _____) ss

_____, NOTARY PUBLIC
_____, COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____

OWNER'S CERTIFICATE AND DEDICATION

HE ALSO DEDICATES EASEMENTS TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, STORMWATER, WATERMAIN, AND/OR UTILITY EASEMENTS.

BISMARCK, ND 58503

STATE OF NORTH DAKOTA)
COUNTY OF _____) ss

_____, NOTARY PUBLIC
_____, COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____

DESCRIPTION:

THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 66.53 ACRES, MORE OR LESS.

OWNER'S CERTIFICATE AND DEDICATION

THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, STORMWATER, WATERMAIN, AND/OR UTILITY EASEMENTS.

RONALD KNUTSON
555 HIGHWAY 1805
BISMARCK, ND 58503

RUTH KNUTSON

STATE OF NORTH DAKOTA)
COUNTY OF)

ON THIS _____ DAY OF _____, 2016, BEFORE ME PERSONALLY APPEARED RONALD AND RUTH KNUTSON, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

_____, NOTARY PUBLIC
_____, COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____

_____, NOTARY PUBLIC
_____, COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____.

OWNER'S CERTIFICATE AND DEDICATION

HE ALSO DEDICATES EASEMENTS TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, STORMWATER, WATERMAIN, AND/OR UTILITY EASEMENTS.

RONALD KNUTSON
RBK VENTURES, LLC
555 HIGHWAY 1805
BISMARCK, ND 58503

STATE OF NORTH DAKOTA)
)

COUNTY OF _____)

ON THIS _____ DAY OF _____

_____, NOTARY PUBLIC
_____, COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____

APPROVAL OF CITY PLANNING COMMISSION:

WAYNE LEE YEAGER - CHAIRMAN

CARL D. HOKENSTAD - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

ATTEST

KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABE SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "MEMORY 1ST ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL, CITY ENGINEER

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

TODD MARSHALL, LAND SURVEYOR
LICENSE NO. 4431

HOUSTON ENGINEERING, INC
3712 LOCKPORT STREET
BISMARCK, NORTH DAKOTA, 58501

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

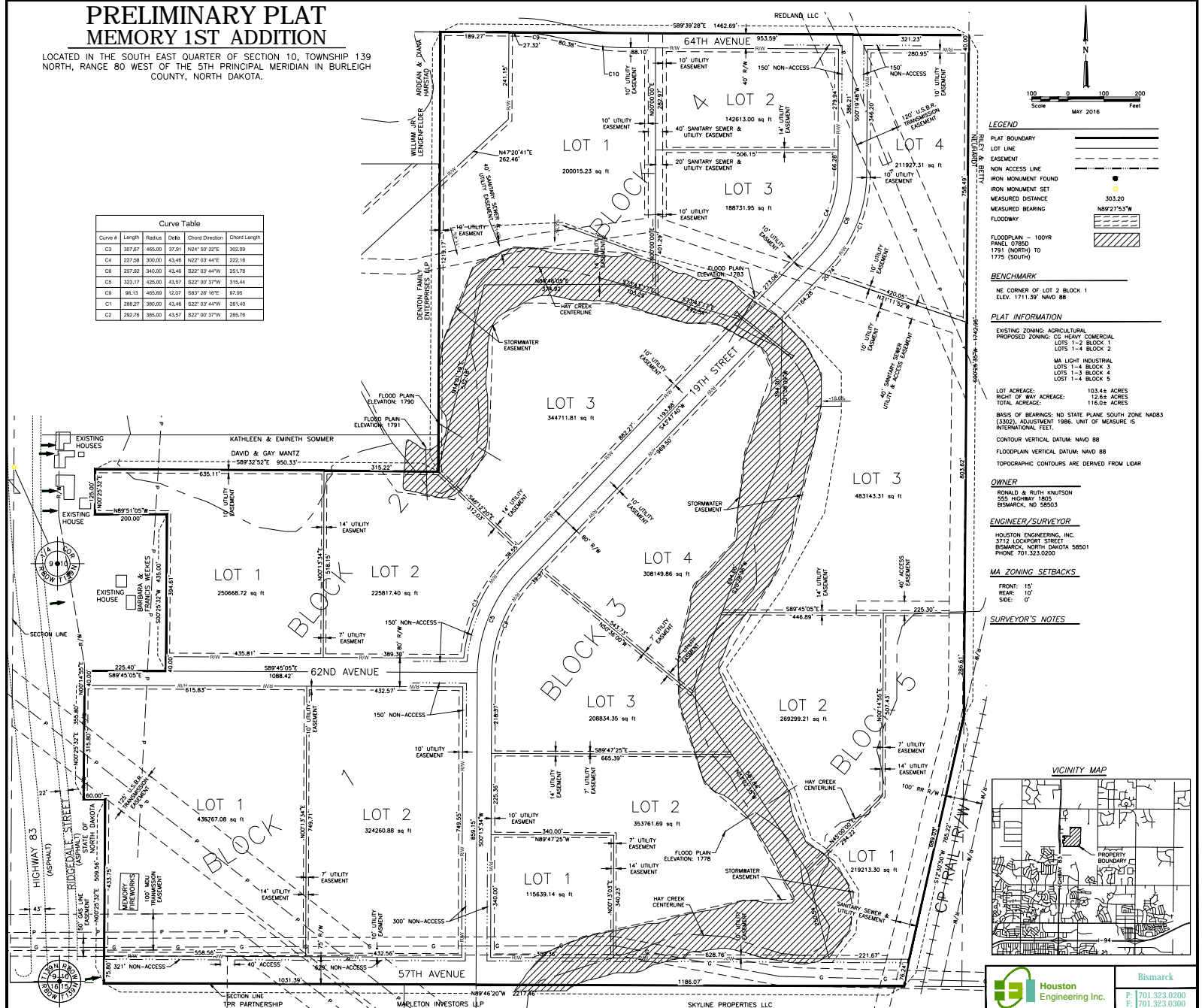
ON THIS _____ DAY OF _____, 2016 BEFORE ME PERSONALLY APPEARED TODD MARSHALL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

_____, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____

PRELIMINARY PLAT MEMORY 1ST ADDITION

LOCATED IN THE SOUTH EAST QUARTER OF SECTION 10, TOWNSHIP 139
NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN IN BURLEIGH
COUNTY, NORTH DAKOTA.

Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C3	307.87	485.00	37.91	N24° 50' 22"E	302.09
C4	227.58	300.00	43.48	N22° 03' 44"E	222.16
C5	257.82	340.00	43.48	S22° 03' 44"W	251.78
C6	323.17	420.00	43.57	S22° 03' 37"W	315.44
C9	98.13	485.89	12.07	S83° 28' 16"E	97.69
C11	288.27	380.00	43.46	S22° 03' 44"W	281.40
C12	292.78	385.00	43.57	S22° 03' 37"W	285.76



***Statement of Interest and Request to Modify the
City of Bismarck's Growth Management Plan
Memory 1st Addition – SW¼ Section 10, T139N R80W
May 20, 2016***

Platting of the Memory First Addition is occurring after numerous discussions regarding various development related issues. This is a statement of interest to formally request consideration to modify the Growth Management Plan based on revised zoning in the area east of 19th Street and west of Hay Creek. First, it is valuable to document some of the discussions and decisions that preceded this request. The following is a brief history of several of the more notable elements:

- The 57th Avenue arterial street corridor was evaluated thoroughly via a review of four potential alignments and alternative access points for 19th Street, as well as non-access locations.
 - The selected alignment, provided in this preliminary plat, has been generally accepted by the City Traffic Engineer and County Engineer.
 - The non-access lines from the Highway #83 ROW were discussed with a general understanding related to the location of 19th Street, and allowing for access to Lot 1 Block 1 in Memory 1st Addition and later a similar access to be provided to the south into properties owned by TPR. These access locations may, in the future, be limited by a center median due to traffic demands, however this is unlikely in the foreseeable future.
 - It was agreed that the 57th Avenue Hay Creek crossing would not be required for construction as part of this and essentially is on hold until there is a demand for traffic access from the east of the CP Railroad (DMVW). Subsequently, there will be no crossing construction required with plat development.
- The original roadway master plan in this area called for Aurora Street to cross Hay Creek to the north with a connection to 57th Avenue. After due consideration and a review of traffic patterns and anticipated access it was determined this stream crossing was not required. In addition, the maximum street length of 1320 feet is exceeded in this area. We understand based on the discussion this is acceptable given the proposed zoning, uses and platted lot configuration.
- The property owner previously signed easements to install a sanitary sewer trunk line extension in this plat area for the City of Bismarck. This installation is complete and the sanitary system is functional and available for use as shown in the utility plan.
- During the discussion on zoning with the Community Development, it was determined there are opportunities to expand the MA industrial area to the west side of Hay Creek. Previously with 19th Street being located east of Hay Creek there was a greater loss of developable property that was unacceptable. Its relocation, as shown on the preliminary plat, created a scenario where the break between CG and MA can and would occur at 19th Street. The advantage is that it expands the MA zoning and a creates a more viable development given site grading and other factors, including the CG Heavy Commercial properties to the west, which a compatible use for property adjoining MA.

In conclusion, this is a formal request to modify the Growth Management Plan based on the proposed zoning as illustrated on the preliminary plat and application documents. This submittal contains all the properties in this area, including the existing Memory Fireworks Site. The application includes platting and zoning the entire area, however any determination on annexation remains to be determined.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

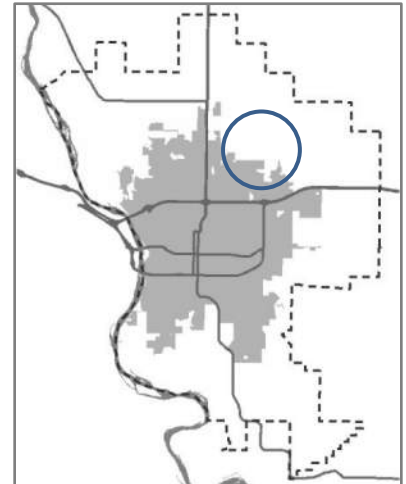
Agenda Item 7
September 28, 2016

Application for: Special Use Permit

TRAKiT Project ID: SUP2016-008

Project Summary

Title:	Lot 1, Block 7, Stonecrest 2 nd Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Vetter & Wald LLLP
Project Contact:	Lon Romsaas, PE, Swenson, Hagen & Co
Location:	In east Bismarck, between East Calgary Avenue and Greensboro Drive and between Centennial Road and French Street along the eastern edge of French Street..
Project Size:	1.23 acres
Request:	Approval of a special use permit for the operation of a drive-through oil change service facility in conjunction with a tire repair business (NW Tire).



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1	Number of Lots:	1
Land Use:	Commercial	Land Use:	Commercial
Designated GMP	Already zoned. Not in Future Land Use Plan	Designated GMP	Already zoned. Not in Future Land Use Plan
Future Land Use:		Future Land Use:	
Zoning:	CG – Commercial	Zoning:	CG – Commercial
Uses Allowed:	CG – General commercial, multi-family residential, and offices	Uses Allowed:	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	CG – 42 units / acre	Max Density Allowed:	CG – 42 units / acre

Property History

Zoned:	04/2011	Platted:	6/2011	Annexed:	03/2011
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Staff Analysis

The applicant is requesting a special use permit to allow for the permanent operation of a drive-through oil change facility in conjunction with a tire repair business (Northwest Tire).

A drive-through service facility is allowed as a special use in the CG – Commercial zoning district, provided specific conditions are met. The proposed facility meets all of the provisions outlined in Section 14-03-08(4)(g) and meets the required vehicle stacking requirements outlined in Section 14-03-10(4) of the City Code of Ordinances (Zoning). Copies of both sections of the ordinance are attached.

Required Findings of Fact

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in

conjunction with other uses in the immediate vicinity;

6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic and;
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit for Lot 1, Block 7, Stonecrest 2nd Addition) for the construction and operation of a drive-through oil change facility, with the following conditions.

1. The service facility must meet all applicable requirements for such a use in the CG-Commercial zoning district and;
2. The development of the site must generally conform to the site plan submitted with the application.

Attachments

1. Section 14-03-10(4)) of City Code
2. Section 14-03-10(4)(g)) of City Code
3. Location Map
4. Site Plan

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

14-03-08(4)(g)

g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, may be permitted in a CG, CR, MA or HM district (drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted in a CA district) as a special use provided:

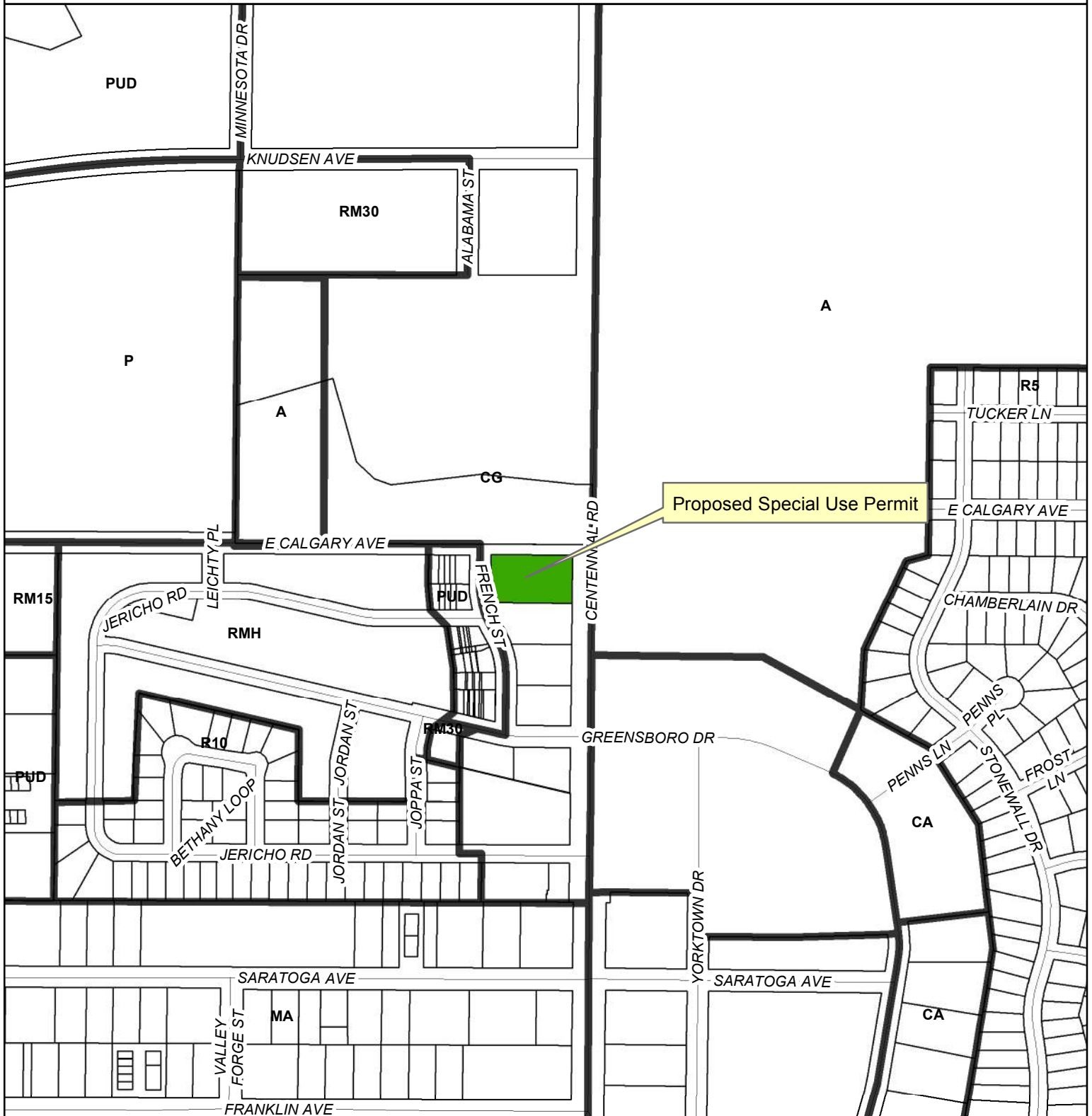
1. The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.
2. Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.
3. Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.
4. Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.
5. All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.
6. On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.

14-03-10(4)

4. Off-street vehicle stacking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required vehicle stacking space shall be of an area at least ten (10) feet wide and twenty (20) feet in length. Vehicle stacking lanes shall be located completely upon the parcel of land that includes the structure they are intended to serve and shall be so designed as to not impede on- or off-site traffic movements. All vehicle stacking spaces shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

Type of Use	Minimum Number of Stacking Spaces	Measured From
Financial institution- ATM	3 spaces per lane	Kiosk
Financial institution – teller	4 spaces for first lane, 3 spaces for each additional lane	Window or pneumatic tube kiosk
Drive-through restaurant	12 spaces	Pick-up window
Drive-through coffee shop	10 spaces	Pick-up window
Car wash, automatic	6 spaces per bay	Entrance
Car wash, self-service	3 spaces per bay	Entrance
Drive-through car service (oil change and similar)	3 spaces per bay	Entrance
Drive-through pharmacy	3 spaces	Window
Drive-through cleaners	3 spaces	Window
Drive-through photo lab	3 spaces	Window
Self-service fueling station	2 spaces per fueling island	Each end of the fueling island
Gated parking lots and entrances	2 spaces	Gate

Proposed Special Use Permit Lot 1, Block 7, Stonecrest 2nd Addition



August 10, 2016 (h1b)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

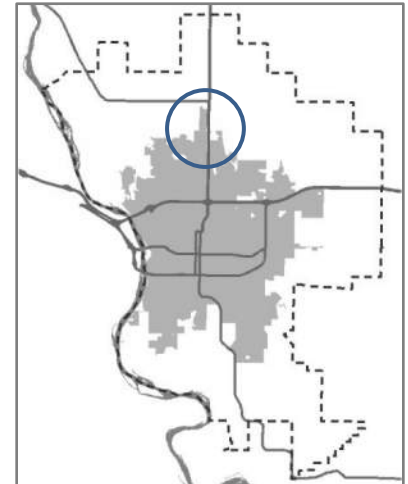
Agenda Item # 8
September 28, 2016

Application for: Special Use Permit

TRAKiT Project ID: SUP2016-010

Project Summary

Title:	Lot 3, Block 1, Hay Creek Pines Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Ian Fyfe
Project Contact:	Alvie Jarratt, Straightway Construction, Inc.
Location:	North of Bismarck, east of US Highway 83, between 97 th Avenue NE and 84 th Avenue NE, along the west side of Forest Drive.
Project Size:	1.99 acres
Request:	Approval of a special use permit to increase the total area of accessory buildings on the property to 3,190 square feet by constructing a 2,400 square foot accessory building with a 350 square foot covered patio and a 440 square foot covered patio.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot	Number of Lots:	1 lot
Land Use:	Rural residential	Land Use:	Rural residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	RR – Residential	Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture	Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet	Max Density Allowed:	RR – 1 unit per 65,000 square feet

Property History

Zoned:	08/1979	Platted:	08/1979	Annexed:	N/A
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Staff Analysis

The Bismarck Planning and Zoning Commission, at their meeting of April 27, 2016, approved a special use permit that would increase the total square footage of accessory buildings on the lot to 2,750 square feet. The owner has revised the building plans to include a 440 square foot covered patio along the west side of the building. If approved as proposed the total area of accessory buildings would be increased to 3,190 square feet.

Section 14-03-06 of the City Code of Ordinances (Incidental Uses) limits the maximum area of accessory buildings for a lot of this size located in the RR – Residential zoning district to 2,400 square feet. However, the total area of accessory buildings may be increased to a maximum area of 3,200 square feet provided a special use permit is approved by the Bismarck Planning and Zoning Commission.

Required Findings of Fact

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the

appearance of the existing or intended character of the surrounding area;

4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic and;
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to increase the total area of accessory buildings on the property to 3,190 by constructing a 2,750 square accessory building with 440 square foot covered patio on Lot 3, Block 1, Hay Creek Pines Subdivision.

Attachments

1. Location Map
2. Site Plan
3. Building Plans

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.org

Proposed Special Use Permit Lot 3, Block 1, Hay Creek Pines



August 17, 2016 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

0 337.5 675 1,350 Feet









STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

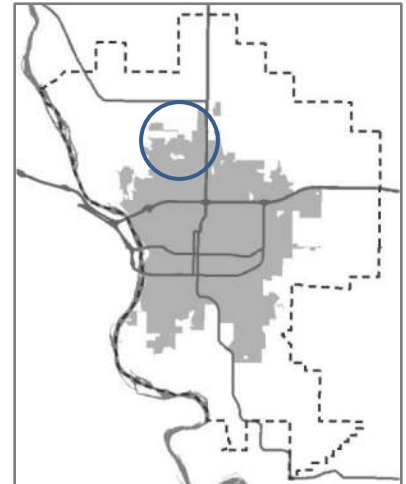
Agenda Item # 9
September 28, 2016

Application for: Special Use Permit

TRAKiT Project ID: SUP2016-011

Project Summary

Title:	Lot 2B of Lot 2, Block 1, 43 rd Avenue Commercial Park 2 nd Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Copper Ridge Development Group, LLP
Project Contact:	Landon Niemiller, Swenson Hagen & Co.
Location:	In north Bismarck, west of US Highway 83, in the northeast quadrant of the intersection of 43 rd Avenue and Coleman Street (4401 Coleman Street, unit 108).
Project Size:	87,679 square feet (parcel size) 714 square feet (unit size)
Request:	Approval of a special use permit to bring an existing drive-through in conjunction with a coffee shop (Rocket Coffee) in a multi-tenant building into compliance.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel in 1 block	Number of Lots:	1 parcel in 1 block
Land Use:	Commercial	Land Use:	Commercial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	CG – Commercial	Zoning:	CG – Commercial
Uses Allowed:	CG – General commercial, multi-family residential, and offices	Uses Allowed:	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	CG – 42 units / acre	Max Density Allowed:	CG – 42 units / acre

Property History

Zoned:	03/2012	Platted:	03/2012	Annexed:	11/2007
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Staff Analysis

The applicant is requesting approval of a special use permit to bring an existing drive-through in conjunction with a coffee shop (Rocket Coffee) in a multi-tenant building into compliance).

A drive-through retail establishment is allowed as a special use in the CG – Commercial zoning district, provided certain conditions are met. The proposed drive-through retail establishment meets all of the provisions outlined in Section 14-03-08(4)(g) of the City Code of Ordinances (Special uses / Drive-through Retail Establishment) and meets the required vehicle stacking outlined in Section 14-03-10(4) of the City Code of Ordinances (Off-Street Parking and Loading). Copies of both sections of the ordinance are attached.

Required Findings of Fact

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;

5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic and;
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit for Lot 2B of Lot 2, Block 1, 43rd Avenue Commercial Park 2nd Addition to allow a drive-through in conjunction with a coffee shop (Rocket Coffee) in a multi-tenant building, with the following condition.

1. The development of site must generally conform to the site plan submitted with the application.

Attachments

1. Section 14-03-08(4)(g) of the City Code
2. Section 14-03-10(4) of the City Code
3. Location Map
4. Site Plan

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

14-03-08(4)(g)

g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, may be permitted in a CG, CR, MA or HM district (drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted in a CA district) as a special use provided:

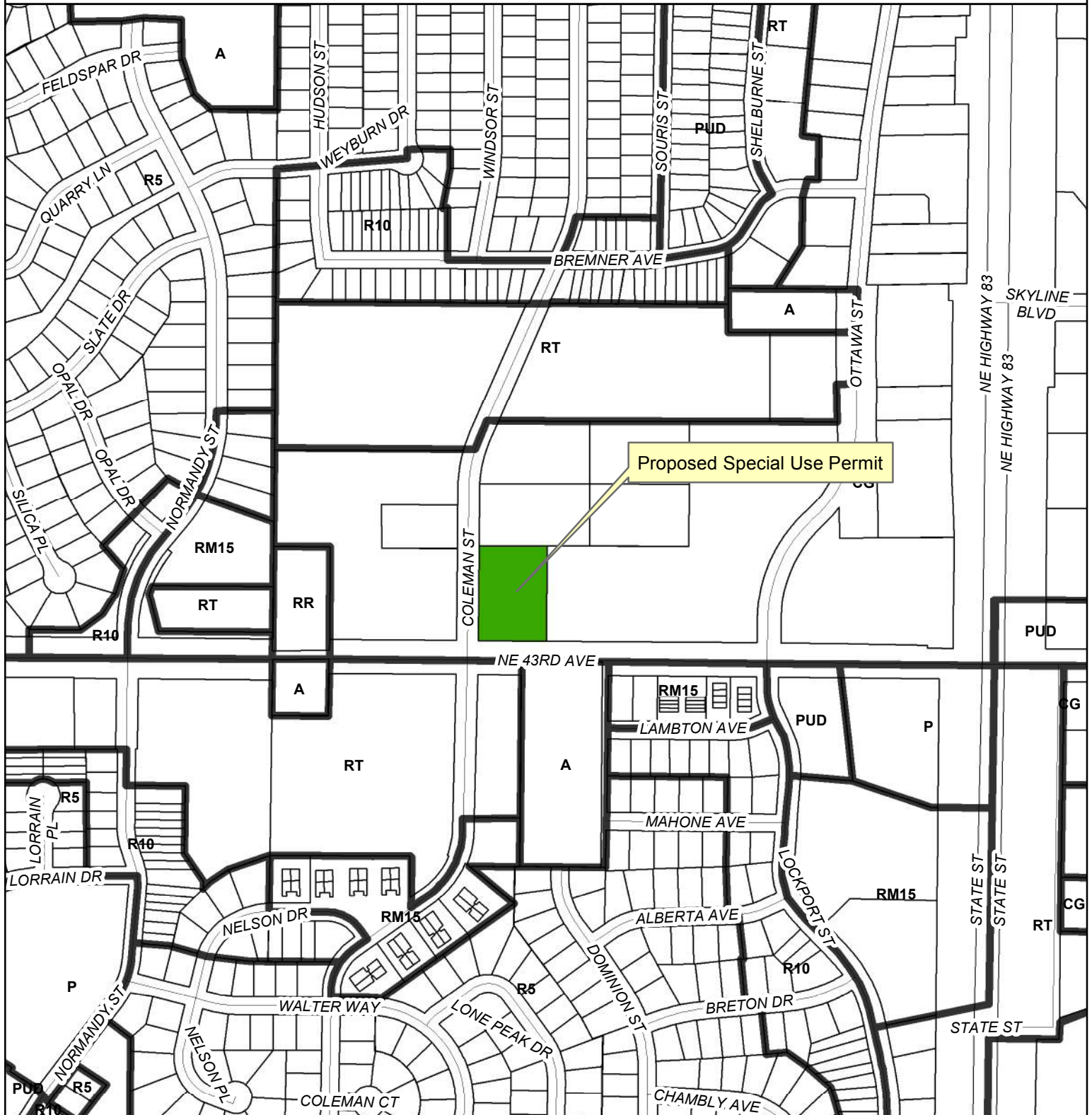
1. The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.
2. Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.
3. Adequate off-street parking shall be provided in conformance with section 14-03-10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14-03-10 of this ordinance, in addition to all common ingress and egress areas provided.
4. Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.
5. All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.
6. On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.

14-03-10(4)

4. Off-street vehicle stacking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required vehicle stacking space shall be of an area at least ten (10) feet wide and twenty (20) feet in length. Vehicle stacking lanes shall be located completely upon the parcel of land that includes the structure they are intended to serve and shall be so designed as to not impede on- or off-site traffic movements. All vehicle stacking spaces shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

Type of Use	Minimum Number of Stacking Spaces	Measured From
Financial institution- ATM	3 spaces per lane	Kiosk
Financial institution – teller	4 spaces for first lane, 3 spaces for each additional lane	Window or pneumatic tube kiosk
Drive-through restaurant	12 spaces	Pick-up window
Drive-through coffee shop	10 spaces	Pick-up window
Car wash, automatic	6 spaces per bay	Entrance
Car wash, self-service	3 spaces per bay	Entrance
Drive-through car service (oil change and similar)	3 spaces per bay	Entrance
Drive-through pharmacy	3 spaces	Window
Drive-through cleaners	3 spaces	Window
Drive-through photo lab	3 spaces	Window
Self-service fueling station	2 spaces per fueling island	Each end of the fueling island
Gated parking lots and entrances	2 spaces	Gate

Proposed Special Use Permit Lot 2B of Lot 2, Block 1 43rd Avenue Commercial Park 2nd Addition



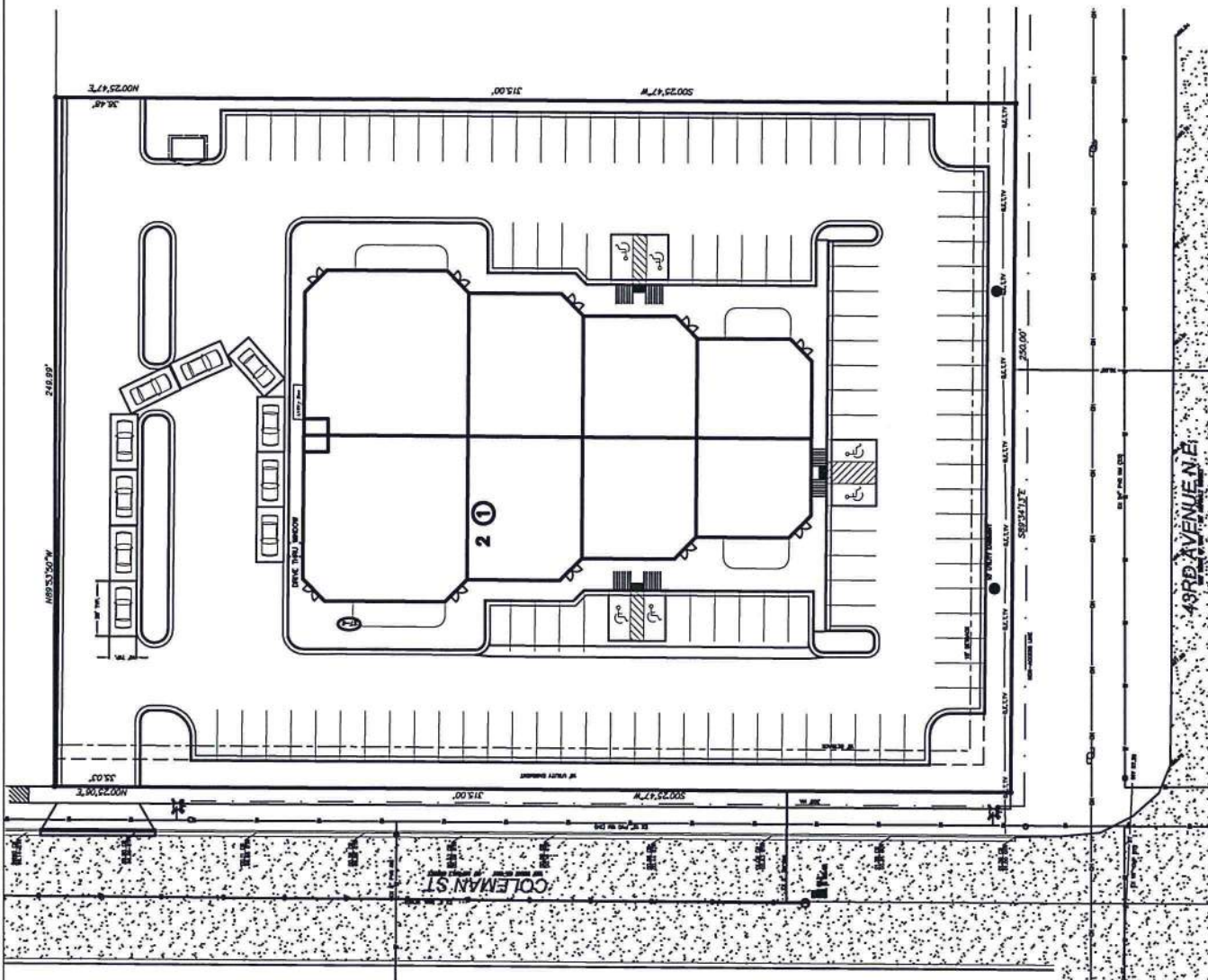
September 2, 2016 (hlb)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.



RECEIVED
SEP 01 2016

SPECIAL USE:
DRIVE THROUGH COFFEE SHOP
REQUIRED STACKING SPACES: 10
PROVIDED STACKING SPACES: 10



DATE	
BY	
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DATE	
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43RD AVENUE OFFICE COMPLEX
PART OF LOT 2 BLOCK 1
SPECIAL USE PERMIT
BISMARCK, NORTH DAKOTA

SWENSON, HAGEN & COMPANY P.C.
100 Bank Avenue
Bismarck, North Dakota 58104
Phone (701) 223-2000
Fax (701) 223-2005
Email: shagen@swensonhagen.com
www.swensonhagen.com
Surveying
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management



DATE: 8/1/16
BY: JH
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DATE: 8/1/16
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STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 10
September 28, 2016

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2016-003

Project Summary

Title:	Elimination of CR – Commercial Zoning District
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Daniel Nairn, AICP, Planner
Sections Amended:	14-03-01 Division of the City into Districts, 14-03-06 Incidental Uses, 14-03-08 Special Uses, 15-05-05.1 Accumulation of Certain Items Prohibited, 14-04-13 CR Commercial District
Request:	Remove the CR – Commercial zoning district from Title 14.

Staff Analysis

On July 26th, 2016, the Bismarck City Commission voted unanimously to amend the zoning map to transition all remaining parcels in the CR – Commercial zoning district to the CG – Commercial zoning district. This action was completed with the anticipation of the elimination of the CR – Commercial zoning district, which is the action currently being proposed. The Planning Division did not receive any opposition to the initial rezoning.

The zoning ordinance text amendment also cleans up a few references to the CB – Commercial zoning district that was removed from Title 14 (Zoning Ordinance) in 2006.

The reasoning for the removal of the CR – Commercial zoning district was included in the staff report for the rezoning action, and it is repeated here:

The CR – Commercial zoning district was established in 1974 with the following purposes:

- a. To prohibit residential, heavy commercial and industrial uses of the land, and to prohibit any other use which would substantially interfere with the development or continuation of commercial structures in the district.
- b. To discourage any use which, because of its character or size, would interfere with the use

of land in the district as a shopping and service center for the regional area served.

The zoning district was only applied to three areas: the Gateway Mall area; the Kmart area; and the Kirkwood Mall area. Over the years the CR – Commercial zoning district has shrunk somewhat, as certain portions were rezoned to CG – Commercial to allow different forms of development.

The CR Zoning District was created in an era when the City wished to accommodate and protect large-scale enclosed malls with lesser parking standards. Each CR District must be at least 40 acres in size, and the principal building must have at least 300,000 square feet of floor area. However, neither the Gateway Mall nor the Kmart Area CR districts currently meet the 40 acre standard, and the Kmart building is only a third the size of the minimum requirement. In addition, the parking standards have since been changed and are now the same in both the CR and CG districts.

An important difference between these two zoning districts is the uses allowed within each. The CR district is more restrictive than the CG – Commercial zoning district, as shown in the chart on the following page:

(continued)

P = Permitted
 X = Not Permitted
 SUP = Permitted with Special Use Permit

	CG	CR
Multifamily Housing	P	X
Group dwelling	P	X
Multifamily high rise	P	X
Hotel-motel	P	X
Retail group A	P	P
Service group A	P	P
Office-bank group	P	P
Retail group B	P	X
Service group B	P	X
Commercial recreation group	P	P
Wholesale group	P	X
Health-medical group	P	P
Education group	P	X
Public recreation group	P	X
Railroad or bus passenger station	P	X
Commercial greenhouse	P	X
Commercial parking lot	P	X
Religious institution	P	P
Temporary Christmas tree sales	SUP	SUP
Temporary religious meetings	SUP	X
Temporary farm and garden produce sales	SUP	SUP
Seasonal nursery and bedding stock sales	SUP	SUP
Filling station	SUP	SUP
Drive-in retail or service establishment	SUP	SUP
Child care center	SUP	SUP
Small animal veterinary clinic	SUP	X
Golf driving range	SUP	X
Auto laundry - car wash	SUP	SUP
Retail liquor sales	SUP	SUP
Microbrewery	SUP	X
Off-premise advertising sign	SUP	X

Setbacks and height limits are also significantly stricter in the CR than the CG Commercial zoning district, and the CR district includes its own minimum parking standards which contradict the updated parking requirements contained in Section 14-03-10.

Staff proposes this change to provide more flexibility for possible redevelopment opportunities within the districts currently zoned CR – Commercial. While there is still a market for the conventional enclosed malls that were built in the 1960s and 1970s, many of these sites around the country are also being redeveloped in a variety of ways. Staff does not see any reason to constrain the creativity of property owners with a zoning district that mandates a conventional retail mall model.

Furthermore, the elimination of a zoning district that is not widely utilized helps simplify the zoning ordinance and map, which enhances the ordinances accessibility to the public and general usability.

Required Findings of Fact

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment that removes the CR – Commercial zoning district from Title 14 and eliminates references to the CR and CB zoning

(continued)

districts throughout Title 14, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance amendment
-

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-01 DISTRICTS: USES, 14-03-06 INCIDENTAL USES, SECTION 14-03-08 SPECIAL USES, AND SECTION 14-05-05.1 ACCUMULATION OF CERTAIN ITEMS PROHIBITED OF THE BISMARCK CODE OF ORDINANCES (REV.) AND REPEAL SECTION 14-04-13 CR - COMMERCIAL DISTRICT OF THE BISMARCK CODE OF ORDINANCES (REV.), ALL RELATING TO THE CR - COMMERCIAL AND CB - COMMERCIAL ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Definitions is hereby amended and re-enacted to read as follows:

14-03-01. Division of City Into Districts. For the purpose of these regulations, the city is hereby divided into twenty classes of districts, which are established as follows:

RR	Residential (rural single-family)
RR5	Residential (rural single-family - 5 acres)
R5	Residential (single-family)
RMH	Residential (manufactured home park)
R10	Residential (two-family)
RM	Residential (multifamily)
RT	Residential (office - multifamily)
HM	Health-Medical
CA	Commercial (neighborhood)
CB	Commercial (downtown)
CG	Commercial (heavy commercial)
CR	Commercial (regional shopping center)
MA	Industrial (light industrial)
MB	Industrial (heavy industrial)

P	Public
A	Agricultural
PUD	Planned Unit Development
FP	Floodplain
AN	Airport Noise
DC	Downtown Core
DF	Downtown Fringe

Section 2. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses is hereby amended and re-enacted to read as follows:

14-03-06. Incidental Uses. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

* * * * *

3. Portable Storage Containers.

* * * * *

c. Portable storage containers in commercial zoning districts.

1. Portable storage containers are allowed in the CA~~7~~ and CG ~~and CR~~ Commercial Zoning Districts for the purpose of storage of seasonal merchandise during the following time periods: November 1 through January 15, and April 1 through June 15.

Section 3. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses is hereby amended and re-enacted to read as follows:

14-03-08. Special Uses. In order to carry out the purposes of this title, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the city planning and zoning commission and by the Zoning Administrator (where allowed) prior to the granting of a building permit or certificate of occupancy and that the city planning and zoning commission and the Zoning Administrator (where allowed) are hereby given limited

discretionary powers relating to the granting of such permit or certificate.

* * * * *

2. Temporary uses (administrative approval). The Zoning Administrator is authorized to grant permits for certain temporary uses without a public hearing or approval of the city planning and zoning commission. All temporary structures used for the following uses shall be removed within fifteen (15) days after termination of the use. The following are temporary uses to which such regulations apply:

a. For a religious meeting in a tent or other temporary structure in a CG, MA, MB or A district for a period not to exceed thirty (30) days.

b. For the open lot sale of Christmas trees in a CA, CG, ~~CR~~, MA, MB or A district for a period not to exceed forty-five (45) days.

c. For seasonal sales of nursery and bedding stock for a period of not more than ninety (90) days in a CA, CG, ~~CR~~, MA, MB or A district.

d. For sale of fireworks for a period of not more than thirty (30) days in a MA, MB or A district.

e. For sale of locally grown farm or garden produce in a CA, CG, ~~CR~~, MA, MB or A district of not more than ninety (90) days.

f. For temporary retail sales in a CA, CG, ~~CR~~ or MA district for a period not to exceed sixty (60) days.

g. For a show, circus, menagerie or carnival in a CA, ~~CR~~, CG, MA, MB, A or P Zone for a period of no more than ten days provided that proof of a bond or liability insurance as required by City Ordinance

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

* * * * *

- b. Off-Premise Advertising Sign: Off-Premise Advertising Signs may be permitted in any CG, CR, MA, or MB district as an administrative special use provided:

* * * * *

- e. Filling stations. A filling station may be permitted in a CA, CB, CG, CR, or MA district as a special use provided:

* * * * *

- g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, may be permitted in a CG, CR, MA or HM district (drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted in a CA district) as a special use provided:

* * * * *

- m. Auto laundry-car wash. An auto laundry or car wash may be permitted in a CG, CR, MA or MB district as a special use, provided:

* * * * *

- s. Retail Liquor Sales. Retail liquor sales for Burleigh County Class AA, B, D and E liquor license holders may be permitted within the city's four-mile extraterritorial jurisdiction

in any CA, ~~CB~~, CG, ~~CR~~ or MA district as a special use provided:

* * * * *

- v. Small Wind Energy Systems. This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

* * * * *

6. Sound produced by a SWES shall not exceed the following limits at the property line:

Zoning District	Day	Night
Residential: RR, RR5, R5, RMH, R10, RM, RT, HM, DF	55	45
Commercial: CA, CG, CR , DC	60	50
Industrial: MA, MB, P, A	65	60

Section 4. Amendment. Section 14-05-05.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Accumulation of Certain Items is hereby amended and re-enacted to read as follows:

14-05-05.1. Accumulation of Certain Items Prohibited.

* * * * *

2. No person shall cause, permit, keep, accumulate or allow the accumulation of any junk, refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing in any commercially, industrially or agriculturally-zoned district absent a special use permit. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used

building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section. The prohibitions contained in this section shall apply to properties zoned ~~CA, DC, DF, PUD, CR, CG, MA, MB, or A~~ CA, CG, MA, MB, A, PUD, DC, or DE. Prior to signing a complaint under this section, the Health Officer or his or her agent must serve the property owner or tenant with a notice and order pursuant to Section 14-05-03.1.

Section 5. Repeal. Section 14-04-13 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to CR Commercial District is hereby repealed:

~~14-04-13. CR Commercial District.~~

~~1. General description. The CR commercial district is established as a district in which the principal use of the land is for regional shopping centers and related services. For the CR commercial district in promoting the general purposes of this article, the specific intent of this section is:~~

~~a. To prohibit residential, heavy commercial and industrial uses of the land, and to prohibit any other use which would substantially interfere with the development or continuation of commercial structures in the district.~~

~~b. To discourage any use which, because of its character or size, would interfere with the use of land in the district as a shopping and service center for the regional area served.~~

~~2. Uses permitted. The following uses are permitted:~~

~~a. Retail group A.~~

~~b. Service group A.~~

~~c. Office bank group.~~

~~d. Commercial recreational group.~~

~~e. Health medical group.~~

~~f. Religious institution.~~

~~The following uses are allowed under special uses pursuant to Section 14-03-08 hereof:~~

~~a. Temporary Christmas tree sales.~~

~~b. Temporary farm and garden produce sales.~~

~~c. Seasonal nursery and bedding stock sales.~~

~~d. Filling station.~~

~~e. Child care center.~~

~~f. Drive in retail or service establishment.~~

~~g. Auto laundry - car wash.~~

~~h. Retail liquor sales.~~

~~i. Off-premise advertising sign.~~

~~3. Lot area. No CR commercial district shall contain less than forty (40) acres.~~

~~4. District width. Each CR commercial district shall have an average width of not less than one thousand (1,000) feet and shall have no principal dimension less than five hundred (500) feet in length.~~

~~5. Floor area. The gross floor area of the principal building shall be not less than three hundred thousand (300,000) square feet.~~

~~6. Setback. A minimum setback of fifty (50) feet shall be required of the principal building except when it fronts on an interior street within the~~

~~district. A setback of at least twenty-five (25) feet shall apply for all other buildings.~~

~~7. Height limits. No building shall exceed fifty (50) feet in height.~~

~~8. Off-street parking. Off-street parking and loading shall be provided in accordance with the provisions of Section 14-03-10 of this Title. A site circulation plan shall be prepared by the shopping center and approved by the Zoning Administrator.~~

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 11
September 28, 2016

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2016-005

Project Summary

Title:	Accessory Uses and Buildings in RMH Residential Zoning District
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	14-03-06(1) (Incidental Uses/Accessory Uses and Buildings) and 14-04-05(3) (RMH Residential District/Development Standards)
Request:	Modify provisions in Title 14 to clarify the maximum permitted accessory building size allowed in the RMH Residential District.

Staff Analysis

Section 14-04-05(2) of the City Code of Ordinances (RMH Residential) outlines use development standards for single-family mobile and manufactured home dwellings located within manufactured home parks. The lot coverage standards indicate that each lot shall be limited to one attached utility structure of no more than 120 square feet. The height limits indicate that no accessory building shall exceed 15 feet in height and that no legal attachment to a principal building shall exceed the height of the principal building. Although detached accessory structures have historically been allowed in this district, the provisions of this section are silent on the size or placement of accessory buildings other than those that are attached to the principal structure.

The desire for accessory buildings in this district has increased as the size of lease lots within the manufactured home parks have increased. Again, although the RMH zoning district is silent on this matter, the practice has been to issue permits for accessory buildings under the same provisions applied to single-family dwellings in the R5 and R10 zoning district.

The proposed amendments will clarify that accessory buildings beyond an attached utility structure are allowed within the RMH zoning district and outline the requirements for such accessory buildings.

Required Findings of Fact

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment to clarify provisions for accessory buildings in the RMH Residential zoning district, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance amendment
-

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-06 AND 14-04-05 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO INCIDENTAL USES/ACCESSORY USES AND BUILDINGS AND THE RMH RESIDENTIAL DISTRICT/DEVELOPMENT STANDARDS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses/Accessory Uses and Building is hereby amended and re-enacted to read as follows:

14-03-06. Incidental Uses. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

1. Accessory Uses and Buildings.

* * * * *

b. One and two-family residential accessory uses and buildings.

1. Accessory uses and buildings commonly associated with residential uses include recreational activities, raising of pets, hobbies and parking of occupants' vehicles.

2. Customary domestic pets are allowed in accordance with the provisions of Title 3 of the

Bismarck Code of Ordinances, but not including horses, poultry or agricultural livestock except as allowed in Sections 14-04-01, 14-04-02 or 14-04-17 of this ordinance. No more than three (3) dogs or cats, four months of age or older are allowed.

3. Private swimming pools are allowed in accordance with the provisions of Chapter 4-06 of the City Code of Ordinances.

4. All allowable accessory buildings for a one or two-family residence in an urban residential zoning district (R5, R10, RM, RMH & RT) shall be limited to a maximum area of twelve hundred (1,200) square feet, a maximum wall height of twelve (12) feet and a maximum building height of twenty-five (25) feet.

Accessory buildings for the above computations shall include the following buildings: barns, stables, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

Section 2. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RMH Residential District is hereby amended and re-enacted to read as follows:

14-04-05. RMH Residential District.

* * * * *

3. Development Standards.

a. Density. The maximum allowable density for all manufactured home parks shall be seven (7) families per net acre.

b. Lot Dimensions.

1. For single-wide manufactured home dwelling units, minimum lot dimensions shall be fifty (50) feet and the minimum lot area shall be five thousand (5,000) square feet.

2. For double-wide manufactured home dwelling units, minimum lot dimensions shall be sixty (60) feet and the minimum lot area shall be six thousand (6,000) square feet.

c. Park Area. The minimum total area of a manufactured home park shall be at least one hundred forty thousand (140,000) square feet.

d. Lot Coverage. The ground area occupied by a manufactured home, all utility structures, roofed deck or patio, and required off-street parking spaces shall not exceed forty (40) per cent of the total area of the lot. In computing the ground coverage, sufficient off-street parking space to comply with Section 14-03-10 hereof shall be added to actual area of the principal and accessory buildings. Each lot shall be limited to one attached utility structure of no more than one hundred twenty (120) square feet. Each lot may also have a detached accessory building(s) in accordance with Section 14-03-06 (1) of this Title, provided the lot coverage requirement is not exceeded.

e. Height Limits. No accessory building shall exceed fifteen (15) feet in height, nor shall any legal attachment to a principal building except the height of the principal building.

* * * * *

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 24, 2016**

The Bismarck Planning & Zoning Commission met on August 24, 2016, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. In the absence of the Chairman and Vice Chairman, Commissioner Bitner was selected to temporarily preside until Vice Chairman Lee arrived, by consensus of the Commissioners present.

Commissioners present were Tom Atkinson, Brian Bitner, Gabe Schell, Mike Donahue, Doug Lee (arrived after the start of the meeting), Mike Schwartz, Mike Seminary and Lisa Waldoch.

Commissioners Vernon Laning, Doug Lee, Ken Selzler and Wayne Yeager were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Will Hutchings – Planner, Hilary Balzum – Community Development Administrative Assistant, Jason Hammes – Assistant City Attorney, Brady Blaskowski – Building Official and Charlie Whitman – City Attorney.

MINUTES

Commissioner Bitner called for consideration of the minutes of the July 27, 2016 meeting.

MOTION: Commissioner Schwartz made a motion to approve the minutes of the July 27, 2016 meeting as presented. Commissioner Donahue seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Schell, Donahue, Schwartz, Seminary and Waldoch voting in favor of the motion.

CONSIDERATION

- A. ELIMINATION OF CR ZONING DISTRICT – SECTIONS 14-03-6, 14-03-08, 14-04-01, 14-04-13 AND 14-05-05.1 – ZONING ORDINANCE TEXT AMENDMENT**
- B. INCIDENTAL USES/ACCESSORY USES & RMH – SECTIONS 14-03-06 AND 14-04-05 – ZONING ORDINANCE TEXT AMENDMENT**

Commissioner Bitner called for consideration of the following consent agenda items:

- A. Elimination of CR Zoning District – Sections 14-03-6, 14-03-08, 14-04-01, 14-04-13 and 14-05-05.1 – Zoning Ordinance Text Amendment
- B. Incidental Uses/Accessory Uses & RMH – Sections 14-03-06 and 14-04-05 – Zoning Ordinance Text Amendment

MOTION: Commissioner Donahue made a motion to approve consent agenda items A and B, calling for public hearings on the items as recommended by staff. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Atkinson, Bitner, Schell, Donahue, Schwartz, Seminary and Waldoch voting in favor of the motion.

PUBLIC HEARING – FINAL PLAT HIGH MEADOWS TWELFTH ADDITION

Commissioner Bitner called for the public hearing on the final plat for High Meadows Twelfth Addition (fka High Meadows 13th Addition). The proposed plat includes six lots in one block on 3.11 acres and is located in northwest Bismarck, west of North Washington Street along the north side of Arabian Avenue (a replat of Lot 5 and part of Lot 6, Block 3, KMK Estates).

Ms. Lee gave an overview of the request, including the following findings:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan (FARMP), as amended.
4. The storm water management plan for the subdivision has been approved by the City Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is a replat of part of an existing residential subdivision.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.

10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Lee said, based on these findings, staff recommends approval of the final plat for High Meadows Twelfth Addition.

Commissioner Bitner opened the public hearing.

There being no comments, Commissioner Bitner closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to recommend approval of the final plat for High Meadows Twelfth Addition. Commissioner Seminary seconded the motion and the motion was unanimously approved with Commissioners Atkinson, Bitner, Donahue, Schell, Schwartz, Seminary and Waldoch voting in favor of the motion.

Commissioner Lee joined the meeting at this time and assumed the role of chairing the meeting.

PUBLIC HEARING – FINAL PLAT MDU BISMARCK NORTHWEST ADDITION

Vice Chairman Lee called for the public hearing on the final plat for MDU Bismarck Northwest Addition. The proposed plat is one lot on 2.75 acres and is located in northwest Bismarck, in the southwest corner of the intersection of Country West Road and Clydesdale Drive.

Mr. Nairn gave an overview of the request, including the following findings:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan (FARMP), as amended.
4. The storm water management plan for the subdivision has been approved by the City Engineer.
5. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District.

6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the findings contained in the staff report staff recommends approval of the final plat for MDU Bismarck Northwest Addition, with the following condition:

1. All of the land in the proposed plat will be owned by MDU Resources Group, Inc prior to recordation of the plat.

Mr. Nairn said staff also recommends the approval of a waiver of the requirement to provide a fifteen (15) foot buffer on the south and east portions of the plat in Section 14-03-07(15)(a)(6) due to the non-residential character of the adjoining parcels.

Vice Chairman Lee opened the public hearing.

Wayne Wilson, 1500 Country Lane, asked when the projected construction start date is or if the zoning needs to change. He stated there are already existing utility transformers in that area now.

Mr. Nairn said the zoning will not change as it is R5-Residential now, and electrical substations are an allowed use in that zoning district. He said there is an existing substation but there is a need for expansion of this facility.

There being no further comments, Vice Chairman Lee closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the final plat for MDU Bismarck

Northwest Addition, with the following condition: 1. All of the land in the proposed plat will be owned by MDU Resources Group, Inc prior to recordation of the plat as well as approval of a waiver of the requirement to provide a fifteen (15) foot buffer on the south and east portions of the plat in Section 14-03-07(15)(a)(6) due to the non-residential character of the adjoining parcels. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Waldoch voting in favor of the motion.

PUBLIC HEARING – FINAL PLAT WOODLAND THIRD SUBDIVISION

Vice Chairman Lee called for the public hearing on the final plat for Woodland Third Subdivision. The proposed plat is one lot on 2.27 acres and is located south of Bismarck, between 48th Avenue SE and Oahe Bend Drive, along the east side of 12th Street SE.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan (FARMP), as amended.
4. The storm water management plan for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer.
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands.

9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the final plat of Woodland Third Subdivision.

Vice Chairman Lee opened the public hearing.

There being no comments, Vice Chairman Lee closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to recommend approval of the final plat of Woodland Third Subdivision. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Donahue, Lee, Schell, Schwartz, Seminary and Waldoch voting in favor of the motion.

PUBLIC HEARINGS – FUTURE LAND USE PLAN AMENDMENT, ZONING CHANGE AND FINAL PLAT SILVER RANCH ADDITION

Vice Chairman Lee called for the public hearing on an amendment to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, from Low Density Residential to Medium Density Residential Mixed Use in the N½ of Section 19, T139N-R79W/Gibbs Township; a zoning change from the A-Agriculture and RR-Residential zoning districts to the R5-Residential, R10-Residential, RM15-Residential, RT-Residential and CA-Commercial zoning districts; and the final plat of Silver Ranch Addition. The proposed plat is 272 lots in 14 blocks on 155 acres and is located northeast of Bismarck, along the south side of 43rd Avenue NE and the east side of 52nd Street NE.

Mr. Nairn gave an overview of the requests, including the following findings for the Future Land Use Plan Amendment:

1. The proposed amendment is compatible with adjacent land uses.
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended.
3. The Gibbs Township Board of Supervisors has recommended approval of the proposed Amendment.

4. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
5. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice.
7. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Mr. Nairn then gave the findings for the zoning change:

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The Gibbs Township Board of Supervisors has recommended approval of the proposed zoning change.
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn then gave the findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that

was tentatively approved by the Planning and Zoning Commission.

3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The stormwater management plan for the subdivision has been approved by the City Engineer.
5. A neighborhood park agreement or a park concept development plan has been accepted by the Bismarck Parks and Recreation District.
6. The Gibbs Township Board of Supervisors has recommended approval of the proposed final plat.
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
8. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
9. The proposed subdivision is not located in an area that is subject to flooding, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, and/or an area that is topographically unsuited for development.
10. The proposed subdivision is consistent with the general intent and purpose of the zoning Ordinance.
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the amendment to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, from Low Density Residential to Medium Density Residential Mixed Use in the N½ of Section 19, T139N-R79W/Gibbs Township as shown in the attached map; approval of the zoning change from the A – Agricultural and RR – Residential zoning districts to R5 – Residential, R10 – Residential, RT – Residential, CA – Commercial, and P – Public Use zoning districts; and approval of the final plat for Silver Ranch First Addition, subject to the following conditions:

1. A developers agreement is signed prior to final plat approval detailing responsibilities for the improvement and installation of all infrastructure necessary to serve Silver Ranch First Addition.
2. Easements for rights-of-way necessary to provide water service are secured prior to approval of the final plat.
3. A viable annexation route is identified to connect the proposed subdivision to the existing city limits prior to approval of the final plat.
4. No building permit may be issued prior to annexation and provision of municipal services to the lands within Silver Ranch First Addition.

Commissioner Seminary asked when construction of this project is scheduled to begin.

Chad Wachter, Investcore, Inc., said he hopes to start in 2017 with plans to have infrastructure and the first set of roadways completed in the spring.

Commissioner Seminary said the lack of available City funds for the completion of roadways needs to be considered, and developments like these might need to have conditional approvals until some form of payment agreement is made between the City and the developer. He said discussions will need to be held between the City and developers because sufficient rights-of-way and easements is concerning. He said 43rd Avenue NE will have to be improved as well, which is a big investment. He said with no sales tax projection in the future and this property not being immediately annexed, the small amount of money the City does have becomes very precious. He said the City may need to start looking at these developments differently until some community decisions are made. He said this will probably come up in discussion at the City Commission, as this is a position the City has been in for a very long time.

Mr. Wachter said he is in the process of working with Burleigh County to get 43rd Avenue NE paved with funding from the cost-sharing and it would be built to Burleigh County rural standards. He said a portion of 52nd St NE will be built to City standards and he is still working on funding alternatives. He said with still having a lot of rural traffic in that area, the City and rural residents would both benefit from these roads. He said he is confident that all of the concerns presented can be worked through.

Vice Chairman Lee said there will be rural residential zoning right next to the proposed R10-Residential and RT-Residential zoning districts and asked if there will be any zoning buffers required.

Mr. Nairn said the R10-Residential zoning district does not require a buffer of any kind but the RT-Residential zoning district would be required to have a buffer between it and the RR-zoned properties. He said these zoning districts are a step down from what was originally proposed, such as the previously requested CG-Commercial zoning district being changed to RT-Residential.

Commissioner Donahue asked how the residents in this development would best access Interstate 94 without having to backtrack west.

Mr. Nairn said they would have to go west to Centennial Road and then south to the interstate. He said if the 66th Street by-pass plan goes through, that would also aid in access to the interstate.

Commissioner Donahue asked if the North Dakota Department of Transportation has been informed of this request or has been allowed to comment at all.

Mr. Nairn said they do not typically get involved at this stage of the development process.

Commissioner Schell asked for the remainder of the plat approval process to be explained. Mr. Nairn said if it is approved today it would be forwarded to the City Commission with there being one meeting to consider the zoning change and Future Land Use Plan Amendment and potentially call for a public hearing. He said if public hearings are called for, they would be at a second meeting in conjunction with final consideration of the final plat. He said if the requests are approved at that time, a request for annexation would have to be submitted and the subdivision would have to be recorded in order for the lots to exist before development can take place. He said staff recommends that a developers agreement would also be required prior to consideration by the City Commission.

Vice Chairman Lee opened the public hearing.

Mary Deringer, 5313 Fairhill Road, said she has lived there since the 1980s along with several other members of her family and their properties abut the lots zoned for R10 development. She said she has no idea what these homes will look like or what R10 versus commercial zoning means. She added she is not against progressive development, but she would like the homes to look similar to that of what the Sattler family has developed to the west. She said duplexes have a tendency to get run down after a number of years and asked if the developer will pay for the roads or if that will get assessed to the nearby property owners. She said when other nearby paving was completed, her family paid for almost all of it. She asked if the streets within the development will allow parking on both sides because this seems to be very compact living. She added she would not want to see mobile homes in this area.

Mr. Nairn said the rights-of-way within the development will be the required 66-feet in width and mobile homes would not be allowed in these zoning districts as they would not meet the building code requirements and are only allowed in the RMH zoning district.

Mr. Wachter said these will be a lot of split-level, multi-family and ranch style homes at a minimum of 1,200 square feet, similar to those in Copper Ridge and South Meadows. He said he has no dealings with mobile homes and there will also be restrictive covenants in place. He said he is willing to change those R10 lots intended for duplexes to R5 and make them bigger because he completely understands the concern of living in the county and having the city limits expand right up next to your property.

Commissioner Schell asked if he would also be willing to switch the proposed RT that abuts the existing rural residential properties to R5 as well. Mr. Wachter said if staff would support that change and it will appease the neighboring property owners, then yes, he would be willing to make that adjustment as well.

Steve Huber, 4101 52nd Street NE, said his family bought their land in the 1950s and his home is just off the gravel portion of 52nd Street NE. He said the traffic on that road should no longer be considered rural traffic as it has gotten heavier over the years. He said he would also appreciate the small lots being done away with in order to reduce the number of people in that area and he would like to see the history of the neighboring properties be maintained as well.

There being no further comments, Vice Chairman Lee closed the public hearing.

Commissioner Schell asked if the RT lots are changed to R5, will Silver Boulevard be enough of a buffer. He said he does not want to push the buffering problem along because some type of transition will eventually be needed somewhere.

Mr. Nairn said staff is ok with the R5-Residential zoning extending to 43rd Avenue NE and the existing zoning would be known by future homebuyers.

Vice Chairman Lee asked if the motion needs to include the request to modify the change to the zoning in Block 4. Mr. Nairn said yes, that modification to the request would need to be included in the motion.

Commissioner Seminary said this request is a good example of how Burleigh County and the City of Bismarck work with developers and coordinate accordingly for progress. He said he is impressed by Mr. Wachter's willingness to work with the neighbors and accommodate them by making significant development changes in order to keep them satisfied.

Vice Chairman Lee asked if these are really concerns that this Commission should be addressing or if they should be addressed at the City Commission level.

Commissioner Seminary said these requests will have an impact on how staff will look at new proposals of this nature in the future.

Commissioner Waldoch said she appreciates the adjacent owners taking it upon themselves to get educated on these requests especially, since these discussions can become very uncomfortable, but those who have commented have done it correctly and appropriately.

Commissioner Donahue said he would like the developer to redraw the changes that have been agreed on before he votes yes on these projects.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the amendment to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, from Low

Density Residential to Medium Density Residential Mixed Use in the N½ of Section 19, T139N-R79W/Gibbs Township as shown in the attached map; approval of the zoning change from the A – Agricultural and RR – Residential zoning districts to R5 – Residential, R10 – Residential, RT – Residential, CA – Commercial, and P – Public Use zoning districts; and approval of the final plat for Silver Ranch First Addition, subject to the following conditions: 1. A developers agreement is signed prior to final plat approval detailing responsibilities for the improvement and installation of all infrastructure necessary to serve Silver Ranch First Addition; 2. Easements for rights-of-way necessary to provide water service are secured prior to approval of the final plat; 3. A viable annexation route is identified to connect the proposed subdivision to the existing city limits prior to approval of the final plat; 4. No building permit may be issued prior to annexation and provision of municipal services to the lands within Silver Ranch Addition; and 5. All lots within Block 4 of the subdivision are included in the R5 – Residential zoning district. Commissioner Atkinson seconded the motion and the request was approved with Commissioners Atkinson, Bitner, Lee, Schell, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion. Commissioner Donahue opposed the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)
LOT 8, BLOCK 2, GOLDEN HEIGHTS SUBDIVISION**

Vice Chairman Lee called for the public hearing on a request for a special use permit to increase the total area of accessory buildings to 3,024 square feet by constructing a 1,440 square foot addition to the existing accessory building on Lot 8, Block 2, Golden Heights Subdivision. The property is located southeast of Bismarck, between County Highway 10 and Apple Creek Road, west of 80th Street SE, along the north side of Viking Drive (7900 Viking Drive).

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.

6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit for Lot 8, Block 2, Golden Heights Subdivision to increase the total area of accessory buildings located on the property up to 3,024 square feet.

Vice Chairman Lee opened the public hearing.

There being no comments, Vice Chairman Lee closed the public hearing.

Commissioner Bitner said he lives near this property and thinks the request should pass as it will be good for the owner to have a structure to move his personal items into and he supports it.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the special use permit to increase the total area of accessory buildings located on the property up to 3,024 square feet on Lot 8, Block 2, Golden Heights Subdivision. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bitner, Donahue, Lee, Schell, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING) NE1/4 OF THE NW1/4 OF SECTION 33, GIBBS TOWNSHIP

Vice Chairman Lee called for the public hearing on a request for a special use permit to increase the total area of accessory buildings to 7,500 square feet by constructing a new accessory building on the property on the NE1/4 of the NW1/4 of Section 33, less the right-of-way, T139N-R79W/Gibbs Township. The property is located east of Bismarck, north of County Highway 10, between 80th Street NE and 93rd Street NE, along the south side of 17th Avenue NE. (8445 17th Avenue NE).

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.

3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit for an oversized building that would increase the total area of accessory buildings on the property up to 7,500 square feet on the NE ¼ of the NW ¼, Section 33 less right-of-way, T139N-R79W/Gibbs Township.

Vice Chairman Lee opened the public hearing.

There being no comments, Vice Chairman Lee closed the public hearing.

Vice Chairman Lee asked if Gibbs Township had provided any comments. Richard Sander, Gibbs Township Supervisor, said the Township supported the special use permit in April and are okay with the proposed changes to it.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the special use permit for an oversized building that would increase the total area of accessory buildings on the property up to 7,500 square feet to be located on the NE ¼ of the NW ¼, Section 33 less right-of-way, T139N-R79W/Gibbs Township. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Seminary, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

Ms. Lee asked if the new format of the agenda and packet was helpful.

Vice Chairman Lee said he likes it and appreciates staff trying to make things easier to use.

Commissioner Schell said he likes it as well and Commissioner Atkinson agreed it is easier to use and likes the new format.

ADJOURNMENT

There being no further business, Vice Chairman Lee declared the Bismarck Planning & Zoning Commission adjourned at 6:17 p.m. to meet again on September 28, 2016.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Yeager
Chairman

DRAFT

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2016

*****City*****

*****ETA*****

	8/2016		8/2015		8/2016		8/2015	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	36	\$7,216,150.25	18	\$3,313,235.58	3	\$924,921.93	6	\$1,467,364.50
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	\$2,200,852.00	2	\$299,548.00	0	\$0.00	0	\$0.00
FIVE OR MORE FAMILY	0	\$0.00	1	\$4,200,000.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	4	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	0	\$0.00	2	\$97,000.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	0	\$0.00	15	\$2,107,780.00	0	\$0.00	2	\$352,976.73
HOSPITALS & INSTITUTIONAL	0	\$0.00	1	\$17,500,000.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	0	\$0.00	1	\$258,985.00	0	\$0.00	0	\$0.00
OTHER NEW	2	\$177,920.70	1	\$500.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	2	\$31,428.00	2	\$63,401.25	3	\$96,480.00	0	\$0.00
RESIDENTIAL GARAGES	7	\$73,442.00	9	\$69,280.00	9	\$236,906.00	11	\$259,728.00
DECKS PORCHES & COVERED PATIOS	23	\$91,898.00	24	\$82,262.50	5	\$26,970.00	3	\$15,315.00
SWIMMING POOLS & SPAS	0	\$0.00	1	\$82,891.00	2	\$105,792.00	1	\$60,000.00
OTHER	9	\$171,838.00	3	\$70,500.00	1	\$3,500.00	0	\$0.00
HOME OCCUPATION	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHEDS	2	\$5,040.00	1	\$2,100.00	2	\$6,120.00	2	\$1,000.00
BASEMENT FINISH	6	\$30,523.50	5	\$26,106.00	5	\$23,256.00	2	\$9,889.50
COMMERCIAL BUILDINGS	19	\$43,039,734.00	16	\$8,161,100.00	0	\$0.00	1	\$900,000.00
RESIDENTIAL	3	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
COMMERCIAL	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	11	\$128,827.71	14	\$80,500.00	0	\$0.00	0	\$0.00
Total	136	\$53,167,654.16	124	\$36,415,189.33	30	\$1,423,945.93	29	\$3,066,273.73

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2016

*****City*****

*****ETA*****

	8/2016		8/2015		8/2016		8/2015	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC ALTERATION	32	\$45,000.00	26	\$1,750.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	51	\$0.00	25	\$21,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	15	\$0.00	18	\$57,740.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	4	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	11	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL OTHER	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL ALTERATION	10	\$65,554.00	5	\$115,610.00	9	\$24,346.00	5	\$9,020.00
BUILDING MECHANICAL FIREPLACE	13	\$41,000.00	4	\$12,000.00	2	\$6,500.00	0	\$0.00
BUILDING MECHANICAL HVAC APPLIANCE	44	\$219,546.14	15	\$78,626.00	5	\$41,980.00	2	\$10,500.00
BUILDING MECHANICAL NEW CONSTRUCTION	48	\$674,964.00	60	\$891,273.00	5	\$45,000.00	4	\$36,131.00
BUILDING MECHANICAL WATER HEATER	12	\$31,901.00	12	\$38,267.00	2	\$2,701.00	0	\$0.00
BUILDING PLUMBING	59	\$1,269,176.00	59	\$1,029,810.00	11	\$126,970.00	11	\$141,500.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	6	\$0.00	13	\$0.00
Total	299	\$2,347,141.14	231	\$2,246,076.00	40	\$247,497.00	35	\$197,151.00

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2016

	*****City*****		*****ETA*****	
	8/2016	8/2015	8/2016	8/2015
Living Units	Units	Units	Units	Units
OTHER NEW	0	0	0	0
FIVE OR MORE FAMILY	0	40	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	4	0	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	2	0	0
SINGLE FAMILY DETACHED	36	18	3	5
Total	52	60	3	5

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2016

*****City*****

*****ETA*****

	8/2016		8/2015		8/2016		8/2015	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	156	\$31,918,083.92	163	\$30,830,864.90	22	\$5,853,355.68	50	\$10,929,060.92
ROWHOUSE (2) 1-HR FIRE SEPARATION	113	\$17,325,691.50	39	\$5,915,039.45	0	\$0.00	0	\$0.00
ROWHOUSE	6	\$576,000.00	0	\$0.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	6	\$1,050,342.00	3	\$208,660.50	0	\$0.00	0	\$0.00
FIVE OR MORE FAMILY	2	\$8,036,000.00	3	\$14,362,000.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	35	\$0.00	47	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	1	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME EXTRAS	1	\$1,800.00	0	\$0.00	0	\$0.00	0	\$0.00
MOTELS	0	\$0.00	1	\$24,000.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	4	\$110,000.00	18	\$97,000.00	0	\$0.00	1	\$0.00
AMUSEMENT & RECREATION	1	\$125,750.00	1	\$249,353.40	0	\$0.00	0	\$0.00
CHURCHES & RELIGIOUS	1	\$99,622.00	2	\$53,513.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	15	\$3,004,830.00	57	\$25,218,325.40	0	\$0.00	6	\$2,948,064.73
HOSPITALS & INSTITUTIONAL	4	\$155,000.00	5	\$29,830,087.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	5	\$3,280,139.00	8	\$12,378,934.00	0	\$0.00	1	\$182,500.00
SCHOOLS & EDUCATIONAL	2	\$3,265,847.00	2	\$4,436,658.00	1	\$18,000,000.00	2	\$906,900.00
RETAIL SALES	5	\$2,488,600.00	3	\$4,880,140.00	0	\$0.00	0	\$0.00
OTHER NEW	3	\$352,920.70	31	\$1,790,895.85	0	\$0.00	0	\$0.00
PUBLIC BUILDINGS	0	\$0.00	1	\$41,664,400.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	21	\$816,421.50	13	\$493,851.01	16	\$522,245.75	11	\$712,516.95
RESIDENTIAL GARAGES	51	\$611,704.02	57	\$452,606.00	57	\$1,249,356.00	49	\$1,347,050.00
DECKS PORCHES & COVERED PATIOS	165	\$589,366.02	133	\$394,500.00	23	\$93,435.00	35	\$108,525.00
SWIMMING POOLS & SPAS	5	\$353,056.70	6	\$318,870.00	5	\$272,410.00	3	\$186,000.00

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2016

*****City*****

*****ETA*****

	8/2016		8/2015		8/2016		8/2015	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
OTHER	50	\$1,298,921.48	50	\$2,343,035.59	8	\$219,100.00	3	\$125,806.00
HOME OCCUPATION	2	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHEDS	19	\$57,638.00	10	\$20,231.50	8	\$67,320.00	2	\$1,000.00
BASEMENT FINISH	112	\$556,976.50	103	\$526,199.12	34	\$188,824.85	35	\$189,313.78
COMMERCIAL BUILDINGS	142	\$59,956,350.00	59	\$27,225,833.39	10	\$730,000.00	4	\$1,291,000.00
OFFICE BUILDINGS	1	\$7,500.00	10	\$1,527,055.00	0	\$0.00	0	\$0.00
OTHER ADDITIONS	0	\$0.00	13	\$1,998,188.00	0	\$0.00	3	\$275,000.00
PUBLIC BUILDING	0	\$0.00	4	\$134,000.00	0	\$0.00	0	\$0.00
MULTI-FAMILY TO SINGLE-FAMILY	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL	4	\$0.00	1	\$0.00	0	\$0.00	1	\$0.00
COMMERCIAL	1	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	13	\$0.00	14	\$0.00
NURSERY STOCK SALES	5	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	14	\$0.00	7	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	72	\$615,138.55	89	\$1,212,959.17	0	\$0.00	1	\$2,400.00
SIGN ALTERATION	11	\$128,349.04	6	\$85,711.00	0	\$0.00	0	\$0.00
Total	1036	\$136,782,047.93	958	\$208,672,911.28	197	\$27,196,047.28	221	\$19,205,137.38

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2016

*****City*****

*****ETA*****

	8/2016		8/2015		8/2016		8/2015	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC ALTERATION	459	\$661,651.00	317	\$1,750.00	0	\$0.00	1	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	266	\$7,000.00	282	\$100,500.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	164	\$35.00	136	\$57,740.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	22	\$0.00	14	\$2,250.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ELEVATOR	15	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL HVAC APPLIANCE	16	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	114	\$276,870.00	84	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL OTHER	0	\$0.00	21	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	6	\$0.00	6	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL SIGN	1	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL ALTERATION	89	\$866,029.00	77	\$2,283,743.00	21	\$3,518,779.00	18	\$60,060.00
BUILDING MECHANICAL FIREPLACE	94	\$308,292.00	123	\$503,171.00	17	\$61,200.00	15	\$68,756.00
BUILDING MECHANICAL HVAC APPLIANCE	265	\$1,665,726.34	71	\$313,331.00	27	\$205,301.00	11	\$104,325.00
BUILDING MECHANICAL NEW CONSTRUCTION	370	\$12,423,368.55	357	\$18,158,879.05	49	\$1,414,895.00	55	\$1,020,361.00
BUILDING MECHANICAL OTHER	2	\$2,453.00	15	\$227,984.00	0	\$0.00	1	\$10,450.00
BUILDING MECHANICAL WATER HEATER	210	\$317,009.69	152	\$211,855.99	17	\$26,800.00	21	\$27,108.00
BUILDING PLUMBING	401	\$9,813,654.53	362	\$11,927,312.00	49	\$971,396.00	62	\$973,683.00
BUILDING SEPTIC	2	\$0.00	0	\$0.00	24	\$0.00	58	\$0.00
BUILDING SEPTIC EVALUATION	0	\$0.00	0	\$0.00	1	\$0.00	0	\$0.00
Total	2496	\$26,342,089.11	2021	\$33,788,516.04	205	\$6,198,371.00	242	\$2,264,743.00

**PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2016**

*****City*****

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	8/2016	8/2015	8/2016	8/2015
Living Units	Units	Units	Units	Units
MOTELS	0	0	0	0
OTHER NEW	0	0	0	0
FIVE OR MORE FAMILY	78	147	0	0
OTHER NEW	0	0	0	0
ROWHOUSE	6	0	0	0
MANUFACTURED HOMES	33	1	0	0
2-UNIT DUPLEX OR CONDO	12	4	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	113	38	0	0
SINGLE FAMILY DETACHED	156	162	22	46
Total	398	352	22	46